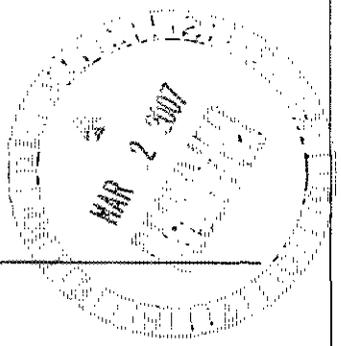


2/8/07



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY
PETITION FOR EXEMPTION FROM 49 U.S.C. 10901
TO ACQUIRE AND OPERATE RAIL LINE IN
WAYNE COUNTY, MICHIGAN

CITY OF RIVERVIEW'S
PETITION TO REVOKE RIVERVIEW TRENTON
RAILROAD COMPANY'S EXEMPTION

ENTERED
Office of Proceedings

MAR 29 2007

Part of
Public Record

NOW COMES the City of Riverview ("Riverview"), a Michigan Municipal Corporation, through its counsel, and pursuant to 49 U.S.C. § 10502 (d), the regulations of the Surface Transportation Board at 49 C.F.R. § 1121.1, and the Board's own Decision of May 9, 2003, Riverview hereby seeks to revoke the exemption granted the Riverview Trenton Railroad Company ("RTRR") in this matter.

HISTORY AND STB DECISION OF MAY 9, 2003

The property subject to this Petition has a long and tortured history.

In 2001, CenTra, Inc., through a subsidiary, RTRR, sought an exemption under Federal law from the prior approval requirements of 49 U.S.C. 10901 to acquire and operate a line of railroad in Wayne County, Michigan, and totally contained within the neighboring Cities of Riverview and Trenton.

Wayne County, Riverview and Trenton all opposed RTRR's petition for exemption on the grounds that there were alternative development plans for the property in question and that CenTra, Inc. was only seeking to obtain railroad status to be exempt from all local regulation. STB Finance

Docket No. 33979, CenTra, Inc., et al. - Continuance in Control Exemption - Crown Enterprises, Inc.

The Surface Transportation Board, after much consternation and trepidation, granted RTRR's petition with the proviso that the Board was sensitive to the concerns expressed by the communities affected by this proposal and imposed strict monitoring and reporting conditions to ensure that the Board is kept advised of RTRR's progress in implementing its project. More specifically, the Board stated that:

"[w]e are reserving oversight jurisdiction over the exemption proceeding for 3 years. We will impose a monitoring and reporting condition to ensure that we are kept advised of RTRR's progress in implementing its project. **Should it become clear at any time during this period that RTRR is not following through on the representations it has made in this proceeding regarding the development of rail service on this property, we will entertain requests to reopen and revisit this matter.**" (See Board's Decision, page 13, Exhibit 1) (emphasis added).

In addition, the Board's Decision imposed the following long list of "conditions" on RTRR and this project:

1. To mitigate potential delay to emergency response providers when RTRR uses its northern rail connection to access Class I railroads, crossing Jefferson Avenue at grade, RTRR shall notify the appropriate emergency response providers at least 2 hours prior to using the at-grade crossing at the north end of its property.
2. RTRR shall comply with the terms of the comprehensive

Due Care Plan (attached in Appendix C of the Environmental Assessment), which is designed to protect public health and natural resources during development of the site as an intermodal terminal facility.

3. RTRR shall consult with the U.S. Department of Agriculture, Natural Resource Conservation Service, to identify and implement Best Management Practices to restrict erosion and avoid runoff to the Trenton Channel from areas where the project may disturb the soil prior to initiation of any construction or earth disturbing activities.

4. In response to concerns raised by the Wayne County Department of Public Services, RTRR shall ensure that its development of the site complies with Part 91 of Act 451, Michigan Natural Resource & Environmental Protection Act, and the Wayne County Storm Water Management Ordinance of October 19, 2000, to the extent that this does not unreasonably interfere with RTRR's ability to go forward with this rail transportation project.

5. As agreed to by RTRR, RTRR shall use landscaping such as berms and vegetation, as appropriate, to minimize noise generated by the intermodal facility.

6. As agreed to by RTRR, to minimize project-related noise, RTRR shall, except in unusual circumstances, conduct rail operations and intermodal facility operations between the hours of 6:00 a.m. and 10:00 p.m. Central Standard Time.

7. To ensure that we are kept aware of RTRR's progress in implementing its project, RTRR shall report to the Board every 6 months, beginning 6 months after the service date of this decision, on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels. These reports will be required for 3 years. This reporting will allow the Board to take appropriate action in the event that RTRR does not follow through on the representations it has made regarding the development of rail service on this property.

8. RTRR shall designate a community liaison from within its organization, to be a point of contact with the local community and local officials, and be available for public meetings. RTRR shall provide the name and phone number of the community liaison to

mayors and other appropriate local officials.” (Exhibit 1).

RTRR'S STATUS REPORTS

RTRR's status reports are inconsistent and make no firm commitments for development of the railroad.

In its First Status Report dated November 17, 2003, RTRR states “[F]irst, RTRR and certain affiliated companies have been engaged in extensive discussions with prospective users of its rail line, including major Detroit-area automobile companies and other large area shippers. These discussions are designed to eventually lead to commercial arrangements with these shippers for handling their traffic at the RTRR facility. As a result of these discussions, RTRR is further refining its business and marketing plans.” (See page 2 of RTRR's First Status Report, Exhibit 2). “Second, RTRR has been engaged in discussions with rail engineering firms on the renovation of the line and the design of the rail loading facility that RTRR intends to develop in conjunction with its line.” (See page 3 of RTRR's First Status Report, Exhibit 2). “Third, RTRR has opened discussions with firms to provide motive equipment and other services needed to operate the RTRR line.” ” (See page 3 of RTRR's First Status Report, Exhibit 2). “Fourth, RTRR intends shortly to initiate discussions with the relevant Class I railroads on opening the physical connections between its line and their lines and on commercial arrangements regarding the interchange of RTRR traffic with those railroads.” (See page 3 of RTRR's First Status Report, Exhibit 2). This report is vague. No names of companies contacted are provided.

In its Second Status Report, dated May 17, 2004, RTRR states that it “has continued to take measured steps toward inaugurating its rail project. RTRR has engaged Transdevelopment Corporation with respect to rail engineering work that will be required to rehabilitate the RTRR

line.” (See page 2 of RTRR’s Second Status Report, Exhibit 3). “In March 2004, as soon as the snow cover at the site had melted, Transdevelopment officials visited the RTRR site to make their further assessment of the track condition and prepare cost estimates for the track’s rehabilitation. Based on their work, requests for bids addressed to firms that specialize in rail rehabilitation will be prepared and distributed.” (See page 3 of RTRR’s Second Status Report, Exhibit 3). “RTRR has communicated with Conrail regarding a re-opening of the physical connection between its line and the Conrail Detroit Shares Assets Operator line at the south end of the RTRR line. Conrail has responded with a proposal that the parties schedule a site visit to assess the connection, and a local CSX official has expressed an interest in participating in that assessment.” (See page 3 of RTRR’s Second Status Report, Exhibit 3). “RTRR has already met with marketing personnel from one Class I railroad within this reporting period to explore business opportunities.” (See page 3 of RTRR’s Second Status Report, Exhibit 3). “RTRR, and its affiliated logistics firm, Logistics Insight Corporation, have had continued discussions over the last few months with prospective users of the line, including major Detroit area automotive manufacturers, as well as shippers located outside the Detroit area.” (See page 3 of RTRR’s Second Status Report, Exhibit 3). This report mentions some names, but still fails to describe any plan.

RTRR’s Third Status Report dated November 15, 2004, states “[I]n recent months, RTRR has entered a contract with a party for clearing debris off of the RTRR rail track. This clearing operation is a necessary pre-condition to the rehabilitation of the track. RTRR has discussed plans for rehabilitation of the track at some length with officials of a firm likely to be retained to undertake such rehabilitation once the pending judicial appeals are at an end. Further, RTRR also engaged in discussions with a shortline railroad operating in the Detroit area concerning a plan

under which that shortline railroad might provide operational support and motive equipment to RTRR for the conduct of RTRR's rail operations. RTRR has also met with Conrail officials in the Detroit area regarding a re-opening of the physical condition at the south end of the RTRR line between its line and the line operated by the Conrail Detroit Shared Assets Operator. At that meeting, the parties discussed the current state of the switch and track in the area. They also apportioned various responsibilities between themselves with respect to certain required inspections, and agreed to further discuss an interchange agreement. RTRR, and its affiliated logistics management firm has had continued discussions with prospective users of the line, both in the Detroit area and outside the area." (See pages 2 and 3 of Third Status Report, Exhibit 4). This report contains a lot of "talking" but again, no action.

In the Fourth Status Report, dated May 16, 2005, RTRR states that "[P]ursuant to a contract that RTRR has entered with a contractor for clearing debris off of the RTRR rail track, that contractor is scheduled to commence work with heavy machinery within the next several weeks. . . .RTRR intends to work diligently with its contractor to finalize this work so that operations may commence." (See page 2, Exhibit 5). Again, no name of the contractor is mentioned and, of course, no work is scheduled to commence for "several weeks."

"RTRR has also engaged in continued discussions with a shortline railroad operating in the Detroit area concerning a plan under which that shortline railroad might provide operational support and motive equipment to RTRR for the conduct of RTRR's rail operations. RTRR anticipates entering into an arrangement of this nature." (See page 2, dated May 16, 2005, Exhibit 5). More discussions and "anticipation" but no firm plans.

"On or about April 15, 2005, RTRR engaged a rail management expert who will work on

its behalf in progressing interchange and commercial relationships with the Class I railroads in the area.” (See page 3, dated May 16, 2005, Exhibit 5). These statements are vague and the expert is not identified.

“Riverview also complains about the height to which shipping containers are being stored on the RTRR property, claiming that these exceed a safe level and a level which RTRR committed to stacking containers. . . . RTRR intends to schedule a meeting with appropriate officials of the City of Riverview in the near future to discuss the new ordinance.” To date, almost two years later, such a meeting has never been scheduled. (See page 4, dated May 16, 2005, Exhibit 5).

Finally, in its Sixth Status Report, dated May 15, 2006, (Exhibit 6) RTRR reports that it had *finally* gotten steps underway toward initiating progress toward the rehabilitation of the track at the north end crossing of Jefferson Avenue and that MDOT has granted its request to reestablish the crossing. MDOT has established a 24 month deadline from the date of the Order for all items listed in the “Ordered Items” section of the Diagnostic Study Team Review Crossing Evaluation Report (attached to RTRR’s Sixth Status Report) to be *completed*.

However, RTRR continued to blame DSC’s demolition of McLouth Steel for its failure to begin work on the rehabilitation of the south end of the track. In addition, RTRR contends that it does not intend to commence track rehabilitation work along the entire line, beginning at the northern end of its line and moving south from there for the length of the line *until the north end connection is reopened*. The north end connection is not scheduled to be reopened for *at least two years*. What is the reason for waiting so long? RTRR gives no reason.

Furthermore, RTRR still hasn’t done anything regarding issues such as landscaping, emergency services on site and general construction and environmental matters but continues to

state that it will maintain an ongoing dialogue with nearby communities. The City of Riverview is not aware of any such dialogue.

As far as business developments are concerned, RTRR continues to *anticipate* working with shortline operators in the Detroit region. RTRR continues to be remiss in providing specifics.

Almost four years have passed since the Decision of May 9, 2003, and the only area RTRR has managed to make any progress in is the north-end crossing at Jefferson Avenue which is at least two years away. Further, it doesn't plan on getting any other rehabilitation work underway and will have no timetable for opening the facility and operating the rail line until *after* the reopening of the north-end crossing.

RTRR CONTINUES ITS NON-COMPLIANCE WITH BOARD MANDATED ENVIRONMENTAL CONDITIONS

Since the Board's Decision of May 9, 2003, with respect to progress in implementing environmental plans, RTRR has stuck with a central theme through each and every status report filed with the STB. In each Status Report, RTRR states "[W]ith respect to the environmental conditions, RTRR notes that most of the environmental conditions imposed by the Board's May 15 Decision are operative only either once construction is underway or after rail operations have commenced. See environmental condition number 1 (notification of emergency responders in advance of using the north end grad crossing); number 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); number 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); number 5 (use of berms and landscaping to minimize noise from operations) and number 6 (restrictions on hours of operation). Since RTRR has neither broken

ground nor begun rail construction activities, these conditions are not yet triggered.” (See page 4 of RTRR’s First Status Report, dated November 17, 2003, Exhibit 2). RTRR does not change its position in any of its status reports.

As stated in the City of Riverview’s supplemental response to RTRR’s sixth status report, rail operations are the only aspect of RTRR’s intermodal facility which has experienced any delay in the initiation of operations. (Exhibit 7). RTRR continues to use the RTRR site to house and stack shipping containers and there is heavy truck volume at the site. RTRR has stated that it “believes that its practices in this regard are safe and consistent with industry practices.” (RTRR’s Fifth Status Report, pg. 6). Again, RTRR offers no specifics and does not refute the City of Riverview’s contention that RTRR invoked STB jurisdiction for the primary purpose of usurping local governmental regulation and, given the indefinite time period in which RTRR intends to take to repair the track from the north-end to the south-end, RTRR may have no intention to conduct rail operations on the site.

Further, RTRR continues to maintain that the majority of the environmental conditions prescribed by the Board are yet to be triggered. This position ignores the fact that many of the conditions were designed to reduce the adverse effects on the community stemming from all operations at the site, not just rail operations. There is a good deal of heavy truck traffic at the facility, yet RTRR has still refused to use landscaping such as berms and vegetation, as appropriate, to minimize noise as required. Perhaps this would also serve to minimize the unsightly appearance of the facility.

Finally, on August 14, 2006, and August 22, 2006, the City of Riverview obtained pictures of the site on which RTRR is located. A map of the Riverview/Trenton Railroad Property, August,

2006, as well as copies of 46 photographs of the site are attached hereto under Exhibit 7. The photographs are numbered 1 through 46 to correspond with the map. As shown by all 46 pictures, the property upon which RTRR is located is unsightly. The vegetation is overgrown throughout the site and is even growing through the fence. (Pictures 1-46). There are holes in portions of the fence and the fence is rusted to the point where the fence is falling. (Pictures 14-17, 27, 29, 30, 32 and 40-44). There is all manner of debris on the site. (Pictures 5, 24-31, 36, 41-44, and 46). There is a swamp on site which is overgrown with tall weeds and debris. (Pictures 7 and 43-46). There are broken down trailers being stored at the site, some of which are left open and are an open invitation to people such as vagrants and children, as well as wild vermin, to come on to the site. (Pictures 2-4, 6, 11, 16-17, and 23). There are storage containers, heavy equipment and semi-trucks being stored at the site. (Pictures 2-3, 6, 11, 16-20, 22-23, 31-32 and 45). There is a boon left in the nearby creek which indicates that there is some leakage into the water stream that is attempting to be contained. (Picture 7). The property that runs right up to Jefferson, across the street from residential homes, is over run with tall vegetation which is unsightly, and which also may impair motorists' ability to observe oncoming traffic on Jefferson, thereby creating a traffic and safety hazard. (Pictures 9-10 and 44-45).

In further support, pictures of the site were taken on November 7, 2006, January 3, 2007 and February 15, 2007, which show no change or progress at the site. (See copies Exhibit 8).

CONCLUSION

Suffice it to say that since the Decision of May 9, 2003, almost four (4) years ago, the property has not been improved, the rail line has not been commenced, and there is little or no business activity on the entire parcel. In fact, the property, throughout these proceedings has been

allowed to deteriorate and become more unsightly. See City of Riverview's First Supplemental Reply to Sixth Status Report of Riverview Trenton Railroad Company and the pictures of the site attached hereto as Exhibit 7. In fact, the property has been used to store storage containers, trailers and trucks.

The three year limitation imposed in paragraph 7 of the conditions outlined in the May 9, 2003, Decision expired almost one year ago and not a single train has moved or a single piece of track been laid at this sight. Further, the property remains largely un-inhabited, unused and under-utilized.

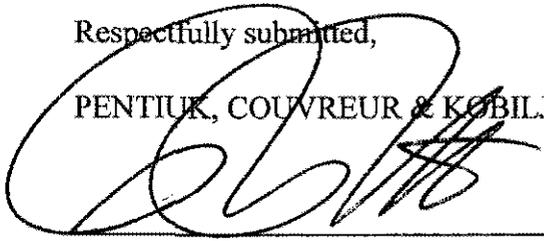
The closing comment by Commissioner Morgan (Board's Decision, page 15, Exhibit 1) rings loud today,

"I trust that Riverview Trenton Railroad Company intends to use the authority it has been given here for rail transportation purposes, rather than merely as a place holder to prevent the City from using the property for other purposes."

It appears that RTRR has violated Commissioner Morgan's trust.

For the foregoing reasons, the Petitioner prays that the Board revoke the prior exemption granted to RTRR in this matter.

Respectfully submitted,



PENTIUK, COUVREUR & KOBILJAK, P.C.

Randall A. Pentiuk
CITY ATTORNEY
CITY OF RIVERVIEW
2915 Biddle Avenue, Suite 200
Wyandotte, MI 48192
(734) 281-7100

Dated: March 14, 2007

Z:\A-R-Z\Clients\RV\W\LTINDSC\Property\Feb 28 Petition to Revoke RTR Exemption.wpd

1

31864
EB

SERVICE DATE - MAY 15, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

Decided: May 9, 2003

We are granting the petition of Riverview Trenton Railroad Company (RTR) for an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire and operate a line of railroad in Wayne County, MI, subject to environmental and monitoring conditions and the requirement that RTR designate a community liaison.

BACKGROUND

In this proceeding, RTR has filed a petition for an individual exemption, under the procedures set forth at 49 CFR Part 1121, to acquire and operate a line of railroad in Wayne County, MI. This proceeding involves the same proposal as the one presented to us in STB Finance Docket No. 33980, Riverview Trenton Railroad Company–Acquisition and Operation Exemption–Crown Enterprises, Inc., under the class exemption at 49 CFR 1150.31 *et seq.*, and incorporates the record in that earlier proceeding, as well as the additional evidence and arguments filed in this proceeding. The background, issues, and record in these proceedings are explained in greater detail in our decision in STB Finance Docket No. 33980, *et al.*, served on February 15, 2002.

The Initial Pleadings. RTR seeks to acquire and to operate over track located in the towns of Riverview and Trenton, in Wayne County, MI. Specifically, RTR plans to operate over: (1) 1.5 miles of rail line on its own property, a 76-acre parcel that RTR purchased from its noncarrier parent, Crown Enterprises, Inc. (Crown);¹ and (2) via easement, track within an

¹ Crown is a real estate development subsidiary of CenTra, Inc. (CenTra). CenTra is a holding company that also owns several transportation companies, including a trucking company, Mason Dixon Lines, Inc. In STB Finance Docket No. 33979, CenTra, Inc., et al.–Continuance in Control Exemption–Crown Enterprises, Inc., CenTra filed a notice of exemption under 49 CFR 1180, to permit it to control RTR, when RTR becomes a rail carrier, along with the Jefferson Terminal Railroad Company (Jefferson), another subsidiary of Crown that had filed a notice of exemption in Jefferson Terminal Railroad Company–Acquisition and Operation Exemption–Crown Enterprises, Inc., STB Finance Docket No. 33950 (STB served Mar. 19,

(continued...)

adjacent 195.45-acre industrial site owned by a non-affiliate, Detroit Steel Center, Ltd. (DSC).² DSC currently moves its own traffic over RTR's track,³ and was moving it over this portion prior to the creation of RTR.⁴ RTR plans to establish an intermodal terminal involving rail, motor, and possibly barge traffic and also plans to transport DSC's traffic.

RTR indicates that it has initiated discussions with other railroads for the interchange of traffic. The track in RTR's 76-acre parcel physically connects at two points with track owned by a CN subsidiary, the Grand Trunk Western Railroad (GTW).⁵ RTR claims that, after appropriate interchange arrangements are made, it will have access to track of the Consolidated Rail Corporation (Conrail) Detroit Shared Assets Area.⁶

RTR's invocation of the class exemption in STB Finance Docket No. 33980 attracted local opposition and generated a substantial record. As explained in more detail in our February 2002 decision, RTR's opponents alleged that RTR's real purpose was to block condemnation of the property for public purposes, rather than to develop it for rail use. GTW also argued that our class exemption procedure was not intended to encompass operations where a start-up carrier like

¹(...continued)

2001) (Jefferson Terminal). We revoked the Jefferson Terminal exemption at the request of the City of Detroit.

² RTR's 76-acre parcel and the adjacent parcel owned by DSC were formerly owned by the McLouth Steel Company (McLouth), which used the track therein to service its plant. On its property, DSC operates a steel mill.

³ DCS and RTR have easements to use the track on each other's property.

⁴ In a letter dated April 16, 2001, DSC asserted that it was transporting 15-20 carloads/month but that it expected to be transporting 50 carloads/week within 6 months. Mistura Exh. 2, attached to RTR's supplemental statement filed on March 7, 2002. According to DSC, the Canadian National Railway Company (CN) operates over its track.

⁵ The grade-separated connection at the south end of the property is active, passing over Jefferson Avenue. The street level (crossing Jefferson Avenue) connection at the north end has been paved over and may require reconstruction to become operable. See the affidavit of James M. Kvedaras, attached to Wayne County's Petition to Revoke filed on February 16, 2001, Tab K, and the photographs in the Environmental Assessment served on October 15, 2001.

⁶ Pursuant to our decision allowing division of the operations and properties of Conrail between Norfolk Southern Railway Company (NSR) and CSX Transportation, Inc. (CSXT), Conrail continues to operate this track in the Detroit area for the benefit of both NSR and CSXT. See CSX Corp. et al.—Control—Conrail Inc. et al., 3 S.T.B. 196 (1998).

RTR would be developing an entirely new service over track that has lain dormant. the class exemption because the property is not subject to our jurisdiction. In any event, they argued, the class exemption should be revoked under the statutory criteria for revocation set forth in 49 U.S.C. 10502(d), or at least be subjected to a proper investigation of environmental issues.

On May 1, 2001, RTR, attempting to put to rest any concerns about its use of our class exemption procedure, filed the instant petition for an individual exemption for the same proposal. Attached to RTR's petition in STB Finance Docket No. 34040 was an environmental report containing environmental information about the proposal.

Because RTR did not withdraw its notice in STB Finance Docket No. 33980, invoking the class exemption, the parties continued to file pleadings arguing whether that exemption should be revoked. By decision served on February 15, 2002, we revoked the use of the class exemption in STB Finance Docket No. 33980. We found that the proposal warrants more detailed scrutiny than was afforded by the existing record in that proceeding. Our decision stated that we would consider all of the arguments submitted in STB Finance Docket No. 33980, to the extent such material was not addressed in the February 2002 decision, when we considered RTR's petition for individual exemption. We also allowed the parties to file supplemental statements and replies in STB Finance Docket No. 34040.⁷

The Environmental Review Process. On October 15, 2001, our Section of Environmental Analysis (SEA) issued for public review and comment a detailed Environmental Assessment (EA)⁸ of RTR's proposed acquisition and subsequent intermodal operations in Wayne County.⁹ SEA received comments on the EA from GTW, the City of Trenton (Trenton), the City of Riverview (Riverview), Wayne County Department of Public Services, and the Southeastern Michigan Council of Governments. SEA addressed those comments in a Post Environmental Assessment (Post EA), which was placed in the public docket on January 22, 2002. The Post EA

⁷ Because members of the affected public have already had substantial opportunity to address the issues raised in this docket, we did not publish a notice requesting public comments under 49 CFR 1121.4.

⁸ SEA prepared an EA in this case because RTR's proposed actions would add a maximum of 300 trucks per day to local roads, exceeding the Board's 50 or more trucks-per-day threshold for the preparation of environmental documentation at 49 CFR 1105.7(e)(4), (5).

⁹ Issues considered included safety, land use, social and economic effects, physiography and soils, water and biological resources, transportation systems (including local roadways, highway/rail at grade crossings, traffic delay, and emergency response delay), energy, navigation, air quality, noise, cultural resources, recreational and visual resources, "environmental justice" demographics, and cumulative effects.

found that, with the imposition of the conditions to mitigate the environmental impact of the proposed actions recommended in the Post EA, RTR's proposal would not significantly affect the environment. Shortly after issuance of the Post EA, a public meeting attended by approximately 500 persons was held in Southgate, MI, where many expressed concern about adverse effects to their communities and their hopes to convert the proposed project area to non-industrial use. After the meeting, the Board received approximately 1700 letters raising concerns of private citizens and government officials. In response SEA prepared a Supplemental Post EA (which was placed in the public docket on August 28, 2002) that reaffirmed SEA's original conclusion that the proposed action would not significantly affect the environment if the conditions SEA had recommended in the Post EA were imposed.

Riverview filed a motion on April 21, 2003, which RTR opposed, asking that we prepare a supplemental EA that considers the environmental impacts associated with a barge facility that the City believes RTR will locate on the Detroit River adjacent to its intermodal facility.¹⁰ As RTR stated, SEA did not evaluate in its EA potential environmental impacts resulting from increased barge traffic due to its speculative nature. SEA explained that RTR has no specific plans to introduce barge service, and, therefore, there would have been no way for SEA to effectively analyze it.¹¹

We have carefully reviewed the EA, Post EA, and Supplemental Post EA (collectively, the EA) and Riverview's April 21, 2003 motion. We find that SEA properly declined to consider barge traffic in the EA, and that there is no need to prepare a Supplemental EA here. We are adopting the analysis and conclusions in the EA as our own and are imposing the conditions recommended by SEA.¹² The scope of the analysis in the EA was adequate, and the EA provided

¹⁰ On May 6, 2003, the Grosse Ile Bridge Company filed a letter in support of Riverview's request for a Supplemental EA evaluating the potential impacts from barges on Grosse Ile residents.

¹¹ Riverview also alleges that RTR's proposal has substantially changed, based on affidavits describing conversations that allegedly took place during settlement negotiations. But affidavits related to unsuccessful negotiation proposals plainly do not demonstrate that this proposal has changed. Accordingly, the EA is fully adequate, and we see no need to conduct further environmental review.

¹² We have made minor changes to SEA's recommended environmental conditions to clarify them. The most significant change is to amplify and clarify the fourth condition in the Post EA. The new condition (No. 4) makes it clear that, in response to concerns raised by the Wayne County Department of Public Services, regarding storm water management, soil erosion, and sediment control, RTR shall ensure that its development of the site complies with the

(continued...)

the appropriate environmental documentation required by the National Environmental Policy Act for this project.

Positions of the Parties. On March 7, 2002, the County of Wayne (Wayne County), Trenton, and GTW (the Joint Opposition) jointly filed a statement, which Riverview has supported, urging us to deny the individual exemption petition. Attached to Riverview's supporting statement was a copy of Riverview's "Master Plan of Future Land Use." The Joint Opposition continues to argue that: (1) RTR is improperly seeking to invoke our jurisdiction to avoid local land use regulation rather than for legitimate transportation purposes; (2) the project would have adverse environmental effects on local traffic and safety; (3) the rail transportation policy of 49 U.S.C. 10101 requires that we consider local desires to put the property to recreational or other "quality-of-life" uses that serve local residents more than interstate transportation, i.e., uses such as the proposed "Riverfront Greenway" development along the Detroit River; and (4) we lack jurisdiction over the proposed operation and thus have no jurisdiction to authorize RTR's project through an exemption.

RTR also filed an opening supplemental statement on March 7, 2002. RTR explained that it has been planning its rail facility, which is in a primarily industrial area, since at least early 2000, and that local officials were well aware of its plans prior to the county's taking exploratory eminent domain action in late 2000. RTR argued that it had met the statutory standards for exemption authority. It stated that its proposed operations fall within the Board's jurisdiction because RTR will hold itself out to the shipping public to provide transportation and interchange services. RTR stated that, consistent with its intent to provide common carrier service, it has invested substantial resources in preparation to rehabilitate the line and construct additional track for the intermodal facility. RTR submitted supporting statements from auto manufacturers and other shippers, motor carriers, and logistics and ocean carrier interests. RTR also submitted witness statements arguing that the planned intermodal terminal is feasible, will have important transportation benefits, and will benefit the environment by diverting traffic from trucks to railroads.

On March 8, 2002, the Grosse Ile Bridge Company (the Bridge Company) filed a statement in opposition to the exemption. The Bridge Company operates a toll bridge that connects Riverview and Trenton to the nearby Detroit River island residential community of Grosse Ile. The Bridge Company maintains that RTR's terminal would create traffic congestion that would interfere with use of the bridge.

¹²(...continued)

Michigan Natural Resource & Environmental Protection Act, and the Wayne County Storm Water Management Ordinance, to the extent that this does not unreasonably interfere with RTR's ability to go forward with this rail transportation project.

On March 21, 2002, RTR filed its reply statement. Addressing opponents' argument that we should allow local jurisdictions to put the property to non-rail use, RTR argues that: (1) the Interstate Commerce Act restricts our evaluation to the transportation considerations mentioned in the rail transportation policy, these considerations have been satisfied, and they do not allow us to act as a local zoning agency or to weigh non-transportation uses of RTR's property; (2) the non-transportation uses and alternate terminal location mentioned by opponents are wish lists rather than feasible, concrete, and funded plans;¹³ and (3) the plans of the local communities could not be realized even if we were to deny RTR's petition because (a) those plans would require that DSC and the numerous surrounding industrial properties also be condemned and (b) DSC is still operating rail track that may not be condemned. RTR also reasserted that we have jurisdiction over the transaction and that the project is a genuine attempt to commence rail service.

In a reply statement filed on March 21, 2002, the Joint Opposition continues to question our jurisdiction over the transaction. Their jurisdictional argument is premised on their assumption that RTR would not be providing common carrier services but, rather would be operating an intermodal terminal only for its own purposes. The Joint Opposition also argues that RTR's evidence improperly points to the general benefits of an additional intermodal terminal in the area, rather than the benefits of conferring common carrier status on RTR. They argue that the shipping needs of the Detroit area would be better met by construction of a "world class freight transportation hub" at a different location. The Joint Opposition criticizes the supporting statements submitted by RTR, arguing that: (a) they are merely form letters; (b) some of them incorrectly purport to represent the views of the entire company rather than the lower-level officers signing them; and (c) they express weak commitment to use of the terminal.

On March 22, 2002, CSXT tendered a late-filed comment and a request on the cover letter that we accept it.¹⁴ That carrier states that it "neither opposes nor supports the proposed transaction," but it expresses concern about the possibility that volumes might turn out to be too low to justify the expense of interchange. CSXT asserts that it has not yet meaningfully discussed interchange terms with RTR and for that reason urges us to retain jurisdiction over any "regulated transportation-related matters" that may arise out of a grant of operating authority to RTR, such as interchange and switching relationships.

¹³ The opponents to this project acknowledge that there is as of yet no timetable for any taking of this property that the County might decide to pursue.

¹⁴ We will accept CSXT's late-filed comment because it prejudices no party and will not delay the proceeding.

On the same date, GTW filed an unauthorized one-page reply-to-a-reply, disputing RTR's argument that opponents have failed to address legal precedents allegedly supporting RTR's position.

By decision served on June 21, 2002, given the willingness to negotiate indicated by each side at that time, we held the proceeding in abeyance, in the hope that the parties could resolve their differences through good faith negotiations to reach a mutually acceptable solution, and directed them to file reports on the status of the negotiations within 90 days. The negotiations did not produce a settlement or any meaningful signs of progress towards one. Each side filed the requested 90-day status reports and, following that, numerous other status reports. In these reports, each party attempted to support its own positions and to blame the other side for lack of progress. On December 6, 2002, RTR filed a document stating that an impasse had been reached and requesting that we act.

On February 28, 2003, Riverview filed a letter stating that further negotiations might be fruitful and asking us to determine "whether further negotiations are intended." By letter filed on March 4, 2003, RTR replied in opposition to any further delay. Given the lack of progress on the parties' negotiations, it is appropriate to issue our decision in this matter at this time.

DISCUSSION AND CONCLUSIONS

We find that we have jurisdiction over the transaction, and we will grant the requested exemption, subject to mitigation conditions developed during the environmental review process. We understand the desire by some opponents to enhance the recreational and aesthetic nature of RTR's parcel, but our statutory responsibility is to assess the transportation merits. Nonetheless, in response to the concerns of the opponents, we will impose on RTR a monitoring and reporting condition designed to ensure that we are kept advised of RTR's progress in implementing its project and to allow us to reopen and revisit the matter and take appropriate action if RTR does not follow through on the representations it has made in this proceeding regarding the development of rail service on this property. To facilitate future interaction between RTR and local communities, we will also impose a condition requiring RTR to designate a community liaison.

Jurisdiction

Under the licensing provisions of 49 U.S.C. 10901, a noncarrier (such as RTR) may acquire a rail line and operate as a common carrier only if we find that the proposal is not inconsistent with the "public convenience and necessity," or if we exempt the transaction from the requirements of section 10901 pursuant to 49 U.S.C. 10502. Throughout this proceeding, RTR's opponents have argued that we lack jurisdiction over the proposed acquisition and operation because RTR's track is excepted "spur, industrial, team, switching, or side tracks"

under 49 U.S.C. 10906.¹⁵ GTW adds that jurisdiction may be lacking because the track may be private track. Wayne County and GTW also maintain that the RTR transaction is not subject to our general jurisdiction under 49 U.S.C. 10501 because RTR's proposed intermodal facility would not be a railroad common carrier operation. Because the jurisdictional issues were not resolved in STB Finance Docket No. 33980, we will resolve them here.

Based on our consideration of all of the parties' evidence and arguments, we find that the transaction proposed by RTR is subject to our jurisdiction under 49 U.S.C. 10901. RTR will not be hauling its own goods. Rather, it will be providing transportation for hire analogous to the regulated services provided in Assoc. of P&C Longshoremens v. The Pitts & Conneault, 8 I.C.C.2d 280 (1992) (P&C Dock) (terminal type rail operations comprise "all movements of railway cars and locomotives in yards") and Effingham¹⁶ (any line that becomes the entire line of a new rail common carrier requires Board authority).

In attempting to show that the track is excepted track under section 10906, Wayne County and GTW focus on the past (pre-notice) use of the track. They explain that previously the track was owned by a non-railroad, McLouth, and used by GTW to switch cars between McLouth's plant and connections with line haul common carriers.¹⁷ They also point out that RTR does not claim that any common carrier had ever leased or had trackage rights over the track.

In determining whether track is excepted track under section 10906, however, we must focus on its intended or future use under the transaction at issue, which may differ from its past use. Nicholson v. I.C.C., 711 F.2d 364, 367-68 (D.C. Cir. 1983) (Nicholson). If track – even track that is used for purposes such as switching – (1) will constitute the entire operation of the new carrier; (2) permits the using carrier to extend operations into, or invade, new territory, and thereby alter the competitive balance between railroads; and/or (3) is essential to the through

¹⁵ The general licensing requirements of section 10901 do not apply to track that is excepted under section 10906, although we retain exclusive jurisdiction over such track pursuant to 49 U.S.C. 10501(b)(2).

¹⁶ Effingham RR Co.–Pet. For Declaratory Order, 2 S.T.B. 606 (1997), reconsideration denied, STB Docket No. 41986 (STB served Sept. 18, 1998), aff'd, United Transp. Union v. Surface Transp. Bd., 183 F.3d 606 (7th Cir. 1999) (Effingham).

¹⁷ The record does not indicate that McLouth was ever certificated to operate as a common carrier. In his statement attached to RTR's reply filed on April 2, 2001, RTR witness B. Michael Blashfield asserts that an official of McLouth told him that GTW served McLouth's plant by operating over its tracks.

movement of traffic from shipper to consignee, then it is deemed to be a railroad line subject to Board licensing requirements, rather than excepted spur or auxiliary track.¹⁸

RTR's intended use of the track meets each of these three criteria. The track will comprise RTR's entire operation. RTR plans to start up an intermodal terminal that will create new competition with intermodal facilities owned by other railroads in the Detroit area. RTR will connect and interchange containers and DSC traffic with the national rail system, first at its south end connection and perhaps later (after track reconstruction) at its north end.

Moreover, RTR will be providing railroad transportation as a common carrier. The record indicates that RTR intends to hold itself out to provide service to the general public, rather than to operate as a private carrier or a switching agent for line haul carriers.¹⁹ Using its rail connections with other established railroad common carriers and motor carriers providing local drayage service,²⁰ RTR's terminal will play a part in the interstate transportation of goods before they reach their place of rest. To do this, RTR will use equipment and facilities that are part of rail service.²¹

¹⁸ See Texas & Pacific Ry. v. Gulf Colorado & S.F. Ry., 270 U.S.C. 266, 278 (1926); Effingham; United Transp. Union v. STB, 169 F.3d 474, 477-78 (7th Cir. 1999); Great Salt Lake and Southern Railroad, L.L.C.—Construction and Operation—In Tooele County, UT, STB Finance Docket No. 33824 (STB served Dec. 15, 2000) (track construction subject to regulation because it would allow service to a new market and constitute the carrier's entire line); New Orleans Terminal Co. v. Spencer, 366 F.2d 160, 165-66, (5th Cir. 1966), cert. denied, 386 U.S. 942 (1967) ("If there are traffic movements which are part of the actual transportation haul from shipper to consignee, then the trackage over which the movement takes place is a 'line of railroad' or extension thereof."); Nicholson, 711 F.2d at 368.

¹⁹ RTR asserts that it will offer a common carrier service to "all shippers" (not just DSC), and that in this respect it will be "no different from any other terminal railroad." Statement of B. Michael Blashfield, at 9, attached to RTR's reply filed on March 8, 2001. RTR also has supported its petition with evidence from shippers stating that they wish to have the service available. Statements by opponents indicate that plans exist for another intermodal terminal in the Detroit area, which supports RTR's claim that there is a market for its service.

²⁰ Statement of B. Michael Blashfield, at 3, attached to RTR's reply filed on March 8, 2001: "The new facility will receive containers and trailers on flat cars (for example) to be loaded and unloaded for interchange between motor carrier mode and rail carrier mode."

²¹ RTR will own and lease track. RTR will purchase or lease "motive power" for the cars that will move on its track. Statement of B. Michael Blashfield, at 9. Under 49 U.S.C.

(continued...)

RTR can be a common carrier even if it neither picks up containers before, nor delivers containers after, rail shipment. There is no statutory requirement that a common carrier railroad must itself pick up from shippers, or deliver to consignees, traffic transported in intermediate stages of movements in interstate commerce. In short, RTR's operation will be similar to those of other small terminal railroad companies that are subject to our jurisdiction.²²

Exemption Criteria

Because RTR's transaction is subject to our jurisdiction, we proceed to consider the exemption request. Section 10502(a) provides that, to the "maximum extent" consistent with the rail provisions of our governing statute, we "shall exempt" a transaction from the requirements of the statute, including section 10901, if we find that: (1) regulation is not necessary to carry out the transportation policy of 49 U.S.C. 10101; and (2) either (A) the transaction is of limited scope or (B) regulation is not needed to protect shippers from abuse of market power. For the reasons discussed below, we find that the requirements of section 10502 have been met.

Rail Transportation Policy. Wayne County argues that we should deny the petition for exemption because regulation under 49 U.S.C. 10901 is necessary to carry out the rail transportation policy of 49 U.S.C. 10101.²³ Basically, the County does not want to have the property used for rail or industrial purposes, preferring other uses that would enhance "the recreational and aesthetic nature of the parcel,"²⁴ and better comport with surrounding communities' quality of life, public health, safety, and welfare. We recognize that the County and the local communities have a different vision for this property than RTR, and the parties have debated whether opponents' plans are achievable. But, while we understand the

²¹(...continued)

10102(6)(a) and (c), RTR's intermodal equipment, yard, and ground will be "railroad" facilities.

²² See P&C Dock, where the ICC held that terminal rail movements "need not satisfy a distance threshold, nor are they limited to train formation or other related classification activity." 8 I.C.C.2d at 292. The cases cited by Wayne County are inapposite because they involved transportation that, unlike the transportation planned by RTR, was private carriage, contract carriage, or carriage exclusively for a corporate parent.

²³ The County also makes a separately captioned argument that regulation is necessary "due to the overriding public interest at stake." We evaluate public interest concerns as appropriate under 49 U.S.C. 10101.

²⁴ Affidavit of DeWitt Henry, attached as Tab A to the County's Petition to Revoke; Post EA at 20-21; Supplemental Post EA at 3-5.

communities' concerns, our statutory responsibility is to look at the transportation merits of RTR's proposal.

Here, RTR has developed specific plans for constructing an intermodal facility for which there is evidence of a current demand, thereby furthering the development of a rail transportation system that meets the needs of the public [§10101(4)]. RTR has taken reasonable steps to prepare for the commencement of rail operations, such as purchasing the necessary property and commissioning a rail engineering firm.²⁵ There is evidence that the Detroit area needs increased intermodal development and that RTR's project will help to meet this need.²⁶ The proposed Detroit Intermodal Freight Terminal (DIFT), relied on by opponents, is currently little more than a concept, and there are reasons to believe that the DIFT and RTR's project would both serve a transportation need. See RTR's reply filed on March 7, 2002, at 7-9.²⁷

RTR also has submitted statements from shippers supporting its project.²⁸ RTR's opponents criticize these statements, arguing that: (a) they are merely form letters; (b) some of them incorrectly purport to represent the views of the entire company rather than the lower-level officers signing them; and (c) they express weak commitment to use of the terminal. RTR responds, however, that its efforts to elicit support have been hindered by the intense controversy connected with its transportation project. On balance, we believe that the statements show that the project is sound enough to attract some significant support under difficult circumstances.

Accordingly, we find that, based on careful consideration of the entire record, this is a legitimate rail transportation project, which should be allowed to go forward. By creating an additional rail intermodal terminal facility, the transaction will promote competition and reasonable rates [§§ 10101(1), (4), (5), (6), and (12)]. The competitive benefits of independent terminals like the one planned by RTR are documented in RTR's reply filed on March 7, 2002, v.s. of Richard J. Schiefelbein. The exemption will also minimize the need for federal regulatory control [§10101(2)] and reduce regulatory barriers to entry [§10101(7)]. The promotion of

²⁵ See: RTR's reply filed in STB Finance Docket No. 33980 on April 2, 2001, at 17; v.s. of Richard A. J. Duffield, attached to RTR's response filed on March 7, 2002. In light of the uncertainty created by opposition to the project, we cannot fault RTR for so far failing to invest substantial sums to implement the plans described in its notice of exemption.

²⁶ Response of RTR filed on March 7, 2002: v.s. of Arnold M. Mistura; v.s. of Richard P. Urban.

²⁷ The DIFT depends on the outcome of a lengthy environmental review process and would require public money that has yet to be dedicated.

²⁸ Exhibit No. 1 to v.s. of Arnold M. Mistura, filed separately on March 18, 2002.

energy conservation, by the development of an intermodal rail service like RTR's that can substitute for truck movements, is another rail transportation policy that supports granting the exemption [§10101(14)].

Section 10101(8) of the rail transportation policy favors the operation of transportation facilities "without detriment to the public health and safety." Riverview and Trenton assert that the intermodal facility will substantially affect the quality of life in the community and that the planned operation will block traffic, to the detriment of public health and safety. But the EA prepared by SEA here shows that (a) there are already significant rail operations in the largely industrial area in the immediate vicinity of the project, (b) for the reasonably foreseeable future, RTR does not anticipate running more than two trains per day, (c) the projected maximum of 300 additional trucks per day on local roadways represents an increase of less than 3 percent of average daily traffic, which is not significant, and (d) the prospect of street blockage will be limited. As the EA explains (at pp. 5-9 to 5-12), the primary rail access to the property is from the south over a grade-separated crossing of the primary traffic artery in the area, and we agree with SEA's conclusion that, with the environmental conditions it has recommended – including one that addresses concerns related to potential delay to emergency response providers when RTR uses its northern rail connection to access Class I railroads – the exemption will not significantly affect the quality of the human environment.²⁹

Finally, the rail transportation policy provides no grounds for denial of the exemption to meet GTW's concern that RTR's operation might operationally interfere with GTW's operations in the area. In any event, GTW has submitted no evidence to support this concern.³⁰

²⁹ Some commenters to the EA alleged that the EA does not adequately consider existing hazardous materials contamination and remediation at the proposed intermodal facility. To the contrary, the EA explained that RTR, working under the guidelines of the Michigan Department of Environmental Quality, has prepared a Due Care Plan to protect public health and natural resources during development of the site as an intermodal facility. The EA attached a copy of the Due Care Plan in Appendix C. One of our environmental conditions requires RTR to comply with the Due Care Plan. RTR also has agreed to voluntary mitigation to minimize noise.

³⁰ In a letter to us dated April 15, 2003, Michigan State Senator Raymond E. Basham requested that we defer any decision until investigative agencies responsible for border, customs, and related interstate and international commerce tied to homeland security provide written documentation that they have completed a review of the concerns related to the railroad. But RTR, like any other railroad, must comply with all applicable regulations covering homeland safety and security. Railroads are legally bound to comply with the comprehensive across-the-board safety measures adopted by the Federal agencies with jurisdiction to adopt appropriate measures to enhance the security of the rail industry as a whole, including the Transportation

(continued...)

Abuse of Market Power. Regulation of RTR's entry into the railroad business is not necessary to protect shippers from abuse of market power. No party maintains to the contrary. Indeed, the kind of traffic that will be handled by RTR, TOFC/COFC traffic, has been exempted as a class from our regulation based on a finding that the regulation of such traffic is not necessary to protect shippers. There is no basis for us to find that regulation of RTR's entry into the TOFC/COFC business is necessary to protect shippers when the service that RTR intends does not need to be regulated. Because we have found that the proposal will not be an abuse of market power, we need not address whether the proposed exemption is limited in scope.

Monitoring and Reporting and Community Liaison Conditions

As discussed above, we are granting the petition for exemption because the statutory criteria have been met. Nevertheless, we are sensitive to the concerns expressed by the communities affected by this proposal. Consequently, we are reserving oversight jurisdiction over the exemption proceeding for 3 years. We will impose a monitoring and reporting condition to ensure that we are kept advised of RTR's progress in implementing its project. Should it become clear at any time during this period that RTR is not following through on the representations it has made in this proceeding regarding the development of rail service on this property, we will entertain requests to reopen and revisit this matter.³¹ In addition, given the level of local concern regarding this project, we will also impose a condition requiring RTR to designate a community liaison to be a point of contact with local communities. The environmental and other conditions being imposed here follow.

Our Conditions

1. To mitigate potential delay to emergency response providers when RTR uses its northern rail connection to access Class I railroads, crossing Jefferson Avenue at grade, RTR shall notify the appropriate emergency response providers at least 2 hours prior to using the at-grade crossing at the north end of its property.

³⁰(...continued)

Security Administration and the Federal Railroad Administration. The statutory requirements of these agencies apply to RTR just as they do to all other railroads. Senator Basham has raised no security issue relating to RTR's proposed intermodal terminal that is separate and distinct from homeland security issues facing the railroad industry generally. Therefore, there is no reason for us to defer action on this proposal.

³¹ Should circumstances warrant it, opponents could file a petition to revoke this exemption or, if necessary, a request for adverse abandonment authority.

2. RTR shall comply with the terms of the comprehensive Due Care Plan (attached in Appendix C of the Environmental Assessment), which is designed to protect public health and natural resources during development of the site as an intermodal terminal facility.

3. RTR shall consult with the U.S. Department of Agriculture, Natural Resource Conservation Service, to identify and implement Best Management Practices to restrict erosion and avoid runoff to the Trenton Channel from areas where the project may disturb the soil prior to initiation of any construction or earth disturbing activities.

4. In response to concerns raised by the Wayne County Department of Public Services, RTR shall ensure that its development of the site complies with Part 91 of Act 451, Michigan Natural Resource & Environmental Protection Act, and the Wayne County Storm Water Management Ordinance of October 19, 2000, to the extent that this does not unreasonably interfere with RTR's ability to go forward with this rail transportation project.

5. As agreed to by RTR, RTR shall use landscaping such as berms and vegetation, as appropriate, to minimize noise generated by the intermodal facility.

6. As agreed to by RTR, to minimize project-related noise, RTR shall, except in unusual circumstances, conduct rail operations and intermodal facility operations between the hours of 6:00 a.m. and 10:00 p.m. Central Standard Time.

7. To ensure that we are kept aware of RTR's progress in implementing its project, RTR shall report to the Board every 6 months, beginning 6 months after the service date of this decision, on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels. These reports will be required for 3 years. This reporting will allow the Board to take appropriate action in the event that RTR does not follow through on the representations it has made regarding the development of rail service on this property.

8. RTR shall designate a community liaison from within its organization, to be a point of contact with the local community and local officials, and be available for public meetings. RTR shall provide the name and phone number of the community liaison to mayors and other appropriate local officials.

As conditioned, we find that our action here will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The exemption is granted, subject to the environmental mitigation and monitoring and other conditions set forth in this decision.

2. This decision is effective on June 14, 2003.

By the Board, Chairman Nober and Commissioner Morgan. Commissioner Morgan commented with a separate expression.

Vernon A. Williams
Secretary

Commissioner Morgan, commenting:

I trust that Riverview Trenton Railroad Company intends to use the authority it has been given here for rail transportation purposes, rather than merely as a place holder to prevent the City from using the property for other purposes. Given the concerns that have been raised about this matter, I wholeheartedly support the oversight condition that has been imposed as part of our approval here today.

2

First Status Report

STEPTOE & JOHNSON ^{LLP}
ATTORNEYS AT LAW

David H. Coburn
202.429.8063
dcoburn@steptoe.com



November 17, 2003

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1924 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
NOV 17 2003
Part of
Public Record

**Re: Finance Docket No. 34040, Riverview Trenton Railroad Company -
Petition for Exemption**

Dear Secretary Williams:

Enclosed please find the original and ten copies of the First Status Report of Riverview Trenton Railroad Company filed pursuant to Condition No. 7 of the Board's May 15, 2003 decision in the above-referenced proceeding.

Sincerely,

David H. Coburn

cc: All parties of record

209431

BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY - PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

FIRST STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

ENTERED
Office of Proceedings
NOV 17 2003
Part of
Public Record

J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

November 17, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

FIRST STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

Pursuant to Condition No. 7 of the Board's May 15, 2003 decision granting an exemption in this proceeding for Riverview Trenton Railroad Company ("RTRR") to acquire and operate a rail line in Wayne County, MI, RTRR submits this first six-month report on the status of its activities. That Condition requires RTRR to report to the Board "on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels." In this Report, RTRR will describe the major steps it has taken in the previous several months toward the inauguration of rail service and the satisfaction of the relevant environmental conditions.

A. Progress Toward Inaugurating Rail Service

RTRR has been actively taking steps necessary prior to inaugurating rail service. It has been doing so notwithstanding that the County of Wayne and the Cities of Riverview and Trenton (collectively, "Local Governments") have filed petitions for judicial review of the

Board's May 15 decision with the United States Court of Appeals for the Sixth Circuit.¹ Based on filings to date in those judicial review proceedings, RTRR anticipates that the Local Governments will argue that the Board acted unlawfully in granting an exemption to RTRR allowing it to initiate rail service. RTRR has intervened in these proceedings to argue in support of the Board's actions. Briefing in these proceedings is currently scheduled to be completed in March 2004. The Court has not yet scheduled an oral argument, but RTRR anticipates that the Court will not issue a final ruling on the petitions for judicial review until mid 2004, at the earliest.

Below, we will describe the major steps that RTRR has taken in the direction of inaugurating rail service while the judicial review proceedings remain pending.

First, RTRR and certain affiliated companies have been engaged in extensive discussions with prospective users of its rail line, including major Detroit-area automobile companies and other large area shippers. These discussions are designed to eventually lead to commercial arrangements with these shippers for handling their traffic at the RTRR facility. As a result of these discussions, RTRR is further refining its business and marketing plans. RTRR remains confident, based on these discussions, that the level of rail shipper support illustrated by filings made during the course of this proceeding, and by discussions that RTRR has had with other major area businesses, remains strong.²

¹ No. 03-4174, *City of Riverview v. Surface Transportation Board, et al.*; No. 03-4198, *City of Trenton v. Surface Transportation Board, et al.*; No. 03-4206, *County of Wayne v. Surface Transportation Board, et al.*

² At the same time, as a result of the unusual Local Government opposition to RTRR's proceeding, and the consequent prolongation, of regulatory proceedings, RTRR has been forced to forego certain business opportunities that were awarded during the course of those proceedings.

Second, RTRR has been engaged in discussions with rail engineering firms on the renovation of the line and the design of the rail loading facility that RTRR intends to develop in conjunction with its line. Preliminary engineering plans have been drafted. RTRR expects to complete the design and engineering process in the coming months, following which rail renovation and yard construction can begin. Pursuant to this, a Request for Qualifications has been prepared and will be circulated shortly to interested rail construction firms to solicit their *capabilities, interest and availability to accomplish the RTRR line renovation and yard development project.*

Third, RTRR has opened discussions with firms to provide motive equipment and other services needed to operate the RTRR line. RTRR has conducted interviews with two potential contract operators of the line, and continues weighing the possibility of acquiring its own equipment and personnel to operate the line. RTRR has already moved an intermodal lift to the site of its proposed intermodal yard. That lift will be used in connection with intermodal operations that RTRR intends to initiate.³

Fourth, RTRR intends shortly to initiate discussions with the relevant Class I railroads on opening the physical connections between its line and their lines and on commercial *arrangements regarding the interchange of RTRR traffic with those railroads.* In the coming weeks and months, RTRR intends to pursue those discussions with appropriate personnel at these railroads to forge such arrangements as are necessary to accommodate the requirements of all parties to the transportation services.

³ In advance of the initiation of rail operations, intermodal containers are currently being stored on the site, together with chassis and tractors.

B. Progress in Implementing Environmental Conditions

With respect to the environmental conditions, RTRR notes that most of the environmental conditions imposed by the Board's May 15 Decision are operative only either once construction is underway or after rail operations have commenced. See environmental condition number 1 (notification of emergency responders in advance of using the north end grade crossing); number 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); number 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); number 5 (use of berms and landscaping to minimize noise from operations) and number 6 (restrictions on hours of operation). Since RTRR has neither broken ground nor begun rail construction activities, these conditions are not yet triggered. Conditions 2 and 8 are *operative at this time, and will be discussed next.*

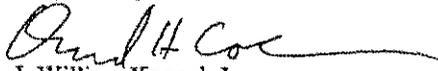
RTRR continues to comply with the Due Care Plan that is referenced in condition number 2 of the Board's decision by managing the property consistent with the requirements of that Plan. That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health. RTRR continues to retain the services of an environmental consultant who regularly monitors the implementation of the Due Care Plan. In addition, RTRR retains the services of a regulatory specialist who is in contact with relevant state and federal officials regarding the former owner's obligations under the consent decrees that were in place when RTRR acquired the property. RTRR is also working in conjunction with the former owner of the site to accomplish remediation.

In compliance with condition number 8, on June 24, 2003, RTRR advised the Board by letter addressed to the Board's Secretary that it had appointed Mr. B. Michael Blashfield to serve

as its Community Liaison. RTRR simultaneously served a copy of that letter on the Mayors of the Cities of Trenton and Riverview, and on appropriate officials of the County of Wayne and other relevant local officials. An RTRR e-mail account has been set up to facilitate communication and RTRR contact information has been provided to interested parties.

Since his appointment, Mr. Blashfield (who had previously been responsible for communications with the Local Governments on matters concerning RTRR) has been invited to speak at school and other community functions and has communicated with Local Government officials on issues relating to RTRR. He also participated in an August 1, 2003 hearing presided over by Congressman John Conyers to consider whether the RTRR facility (as well as another proposed facility for the area unrelated to RTRR) give rise to any homeland security issues. Mr. Blashfield offered reassurances that the RTRR facility raises no such issues and answered questions from various elected officials and local citizens. In addition, Mr. Blashfield regularly responds to media inquiries and, along with his colleagues, provides information as needed to elected representatives and area residents.

Respectfully submitted,



J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

November 17, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2003, a copy of this First Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail, postage prepaid.


David H. Coburn

3

Second Report

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

David H. Coburn
202.429.8063
dcoburn@steptoe.com



130 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

May 17, 2004

210940

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1924 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

MAY 18 2004

Part of
Public Record

Re: Finance Docket No. 34040, Riverview Trenton Railroad Company –
Petition for Exemption

Dear Secretary Williams:

Enclosed please find the original and ten copies of the Second Status Report of Riverview Trenton Railroad Company filed pursuant to Condition No. 7 of the Board's May 15, 2003 decision in the above-referenced proceeding.

Sincerely,

David H. Coburn

cc: All parties of record

WASHINGTON

PHOENIX

LOS ANGELES

LONDON

BRUSSELS

BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34040

210940

RIVERVIEW TRENTON RAILROAD COMPANY -- PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

SECOND STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

ENTERED
Office of Proceedings

MAY 18 2004

Part of
Public Record

J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

May 17, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

SECOND STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

Pursuant to Condition No. 7 of the Board's May 15, 2003 decision granting an exemption in this proceeding for Riverview Trenton Railroad Company ("RTRR") to acquire and operate a rail line in Wayne County, MI, RTRR submits this second six-month report on the status of its activities. That Condition requires RTRR to report to the Board "on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels." In this Report, RTRR will describe the major steps it has taken in the previous several months toward the inauguration of rail service and the satisfaction of the relevant environmental conditions.

A. Progress Toward Inaugurating Rail Service

Petitions for judicial review of the Board's May 15, 2003 decision filed by the Local Government opponents of the rail line (County of Wayne and Cities of Trenton and Riverview)

remain pending before the United States Court of Appeals for the Sixth Circuit.¹ In these judicial review proceedings, the Local Governments argue that the Board acted unlawfully, including in violation of the National Environmental Policy Act, in granting an exemption to RTRR allowing it to initiate rail service. RTRR has intervened in these proceedings and argued in support of the Board's actions. Briefing in these proceedings has been completed, but oral argument has not yet been scheduled. RTRR currently anticipates that the Court will not issue a final ruling on the petitions for judicial review for at least several more months. While RTRR is hopeful that the Court will affirm the Board's decision, uncertainty with respect to the status of the Board's decision will remain as long as the Local Governments continue to pursue their judicial review.²

Notwithstanding the above, RTRR has continued to take measured steps toward inaugurating its rail project. RTRR has engaged Transdevelopment Corporation with respect to rail engineering work that will be required to rehabilitate the RTRR line. That firm specializes in the development of rail terminal projects. A principal of that firm, Mr. John MacGregor, testified in support of RTRR during the course of this proceeding and described the site plan development work that had been done for RTRR by Transdevelopment at that time. In March 2004, as soon as the snow cover at the site had melted, Transdevelopment officials visited the

¹ No. 03-4174, *City of Riverview v. Surface Transportation Board, et al.*; No. 03-4198, *City of Trenton v. Surface Transportation Board, et al.*; No. 03-4206, *County of Wayne v. Surface Transportation Board, et al.*

² In a January 22, 2004 filing with the Board styled as "City of Riverview's Reply to First Status Report of Riverview Trenton Railroad Company," Riverview complained that RTRR "has taken few steps toward actually beginning rail operations . . ." While RTRR disagrees with that characterization, Riverview cannot be heard to complain about the pace of RTRR's progress while it continues to place the Board's authorization for RTRR to operate a rail line in doubt through its judicial review proceeding. RTRR, in other words, cannot be expected to make substantial financial investments in the project while its future remains in doubt because of Riverview's actions, and that of the other Local Governments.

RTRR site to make their further assessment of the track condition and prepare cost estimates for the track's rehabilitation. Based on their work, requests for bids addressed to firms that specialize in rail rehabilitation will be prepared and distributed.

RTRR has also had some continued discussions during the past several months with firms that could provide motive power and labor to operate the RTRR line. RTRR intends to continue to pursue these discussions and is quite confident that rail equipment and personnel will be available when rail service is ready to commence.

RTRR has communicated with Conrail regarding a re-opening of the physical connection between its line and the Conrail Detroit Shared Assets Operator line at the south end of the RTRR line. Conrail has responded with a proposal that the parties schedule a site visit to assess the connection, and a local CSX official has expressed an interest in participating in that assessment. RTRR is in the process of confirming dates on which to conduct that assessment with appropriate rail representatives and expects that this assessment will move forward in the coming weeks. Following the discussions concerning the physical opening of the track, RTRR of course will be pursuing further commercial discussions with various Class I railroads. RTRR has already met with marketing personnel from one Class I railroad within this reporting period to explore business opportunities.

RTRR, and its affiliated logistics firm, Logistics Insight Corporation, have had continued discussions over the last few months with prospective users of the line, including major Detroit area automotive manufacturers, as well as shippers located outside the Detroit area. While these discussions have been fruitful, RTRR is not in a position to move toward formal arrangements with prospective shippers or other parties given the continued uncertainty (in light of the pending judicial review proceeding) over the Board's order allowing RTRR to conduct rail operations.

B. Progress in Implementing Environmental Conditions

Most of the environmental conditions imposed by the Board's May 15 Decision are *operative only either during the stage that construction is underway or after rail operations have commenced*. See environmental Condition No. 1 (notification of emergency responders in advance of using the north end grade crossing); No. 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); No. 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); No. 5 (use of berms and landscaping to minimize noise from operations of the intermodal facility) and No. 6 (restrictions on hours of operation). Since RTRR has not yet begun the rehabilitation of its line or construction of its yard area, these conditions are not yet triggered.³

RTRR continues to manage the property consistent with the requirements of the Due Care Plan and to retain the services of a consultant to address compliance with that Plan, consistent with the obligations imposed by Condition No. 2 of the Board's decision. That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health and natural resources.

In compliance with Condition No. 8, as previously reported RTRR has appointed Mr. B. Michael Blashfield to serve as its Community Liaison. Mr. Blashfield, as well as other

³ In its January 22 filing, Riverview also complained that RTRR has failed to take steps to restrict erosion and avoid runoff into the Trenton Channel from areas where soil may be disturbed in violation of Condition No. 3. Since RTRR has not yet begun construction, and is not yet on the verge of doing so, RTRR does not understand Riverview's concern. Likewise, Riverview complains that RTRR has yet to install landscaping or a berm to minimize noise in compliance with Condition No. 5. Since there are no trains operating on the property, RTRR is again at a loss to understand Riverview's concern. Whatever noise might be generated from non-rail container storage on the property is not, as RTRR understands the Board's decision, subject to the noise mitigation condition imposed explicitly with respect to future intermodal operations.

representatives of RTRR, have engaged in a series of discussions with local government officials and community leaders over the past several months on a variety of matters. For example, in late 2003, the City of Trenton, acting through its mayor, pursued an initiative to purchase the DSC property over which RTRR maintains a rail easement essential to the operation of its line. RTRR communicated with the City with respect to RTRR's need to protect its rail easement in the event of the purchase and development of the property by the City, as well the obligation of the City to comply with certain environmental cleanup responsibilities in the event of a purchase. In the end, however, the City's purchase of the property did not go forward as the Trenton City Council voted in March 2004 against the proposed purchase.

RTRR also met with the new City Manager for Riverview, and the City's Fire Chief to discuss matters of mutual interest. In addition, RTRR has also met with local citizens interested in the area, and participated in a discussion in March 2004 with the Metropolitan Affairs Coalition about redevelopment along the Trenton riverfront. The Coalition, composed of Local Government officials, local Congressional representatives and concerned citizens, has not yet developed a formal redevelopment plan. RTRR remains prepared to discuss coexistence of its rail project with other development plans that may emerge for the area.

Respectfully submitted,



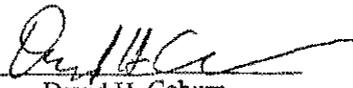
J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

May 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2004, a copy of this Second Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail, postage prepaid.


David H. Coburn

4

3rd Status Report

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

David H. Coburn
202.429.8063
dcoburn@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

ENTERED
Office of Proceedings
NOV 15 2004
Part of
Public Record

November 15, 2004



VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K. Street, N.W.
Washington, D.C. 20423-0001

212548

Re: Finance Docket No. 34040, Riverview Trenton Railroad Company -
Petition for Exemption

Dear Secretary Williams:

Enclosed please find the original and ten copies of the Third Status Report of Riverview Trenton Railroad Company filed pursuant to Condition No. 7 of the Board's May 15, 2003 decision in the above-referenced proceeding.

Sincerely,

David H. Coburn
David H. Coburn

cc: All parties of record

2/2548



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY - PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

THIRD STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

ENTERED
Office of Proceedings

NOV 15 2004

Part of
Public Record

J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

November 15, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

THIRD STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

Pursuant to Condition No. 7 of the Board's May 15, 2003 decision granting an exemption in this proceeding for Riverview Trenton Railroad Company ("RTRR") to acquire and operate a rail line in Wayne County, MI, RTRR submits this third six-month report on the status of its activities. That Condition requires RTRR to report to the Board "on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels." In this Report, RTRR will describe the steps it has taken in the previous several months toward the inauguration of rail service and the satisfaction of the relevant environmental conditions.

A. Progress Toward Inaugurating Rail Service

Petitions for judicial review of the Board's May 15, 2003 decision filed by the Local Government opponents of the rail line (County of Wayne and Cities of Trenton and Riverview) remain pending before the United States Court of Appeals for the Sixth Circuit.¹ In these

¹ No. 03-4174, *City of Riverview v. Surface Transportation Board, et al.*; No. 03-4198, *City of Trenton v. Surface Transportation Board, et al.*; No. 03-4206, *County of Wayne v. Surface Transportation Board, et al.*

judicial review proceedings, the Local Governments argue that the Board acted unlawfully, including in violation of the National Environmental Policy Act, in granting an exemption to RTRR allowing it to initiate rail service. RTRR has intervened in these proceedings and argued in support of the Board's actions. Briefing in these proceedings has been completed, and oral argument has been scheduled for December 9, 2004. Wayne County's attorney has requested a postponement in this oral argument date for personal reasons. RTRR has opposed that request on the grounds that any such postponement could possibly delay the argument date for months. The Court has not yet ruled on this matter.

RTRR currently anticipates that the Court will not issue a final ruling on the petitions for judicial review for at least several more months. While RTRR believes that the Court will affirm the Board's decision, uncertainty with respect to the status of the Board's decision will remain as long as the Local Governments continue to pursue judicial review. In view of that uncertainty, RTRR is constrained from investing significant capital toward the initiation of rail operations until the Sixth Circuit has ruled. Nonetheless, RTRR has continued to take measured steps in furtherance of its rail plans.

In recent months, RTRR has entered a contract with a party for clearing debris off of the RTRR rail track. This clearing operation is a necessary pre-condition to the rehabilitation of the track. RTRR has discussed plans for rehabilitation of the track at some length with officials of a firm likely to be retained to undertake such rehabilitation once the pending judicial appeals are at an end. Further, RTRR has also engaged in discussions with a shortline railroad operating in the Detroit area concerning a plan under which that shortline railroad might provide operational support and motive equipment to RTRR for the conduct of RTRR's rail operations.

RTRR has also met with Conrail officials in the Detroit area regarding a re-opening of the physical connection at the south end of the RTRR line between its line and the line operated by the Conrail Detroit Shared Assets Operator. At that meeting, the parties discussed the current state of the switch and track in the area. They also apportioned various responsibilities between themselves with respect to certain required inspections, and agreed to further discuss an interchange agreement.

RTRR, and its affiliated logistics management firm have had continued discussions with prospective users of the line, both in the Detroit area and outside the area. While these discussions have been fruitful, RTRR is not in a position to move toward formal arrangements with prospective shippers or other parties until judicial review of the Board's order is completed.

B. Progress in Implementing Environmental Conditions

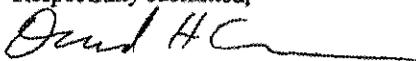
As RTRR has previously reported, most of the environmental conditions imposed by the Board's May 15 Decision are operative only either during the stage that construction is underway or after rail operations have commenced. See environmental Condition No. 1 (notification of emergency responders in advance of using the north end grade crossing); No. 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); No. 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); No. 5 (use of berms and landscaping to minimize noise from operations) and No. 6 (restrictions on hours of operation). Since RTRR has not yet begun the rehabilitation of its line or construction of its yard area, these conditions are not yet triggered.

RTRR continues to comply with the Due Care Plan that is referenced in Condition No. 2 of the Board's decision by managing the property consistent with the requirements of that Plan.

That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health and natural resources.

Finally, in furtherance of Condition No. 8, RTRR has recently appointed Wendy L. Smith as its new community liaison, replacing Mickey Blashfield, who has held this position until now. Ms. Smith's phone number is 586 939-7000, ext 2769. A notice of this appointment is being provided to local officials as required by that Condition.

Respectfully submitted,



J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

November 15, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November, 2004, a copy of this Third Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail, postage prepaid.


David H. Coburn

5

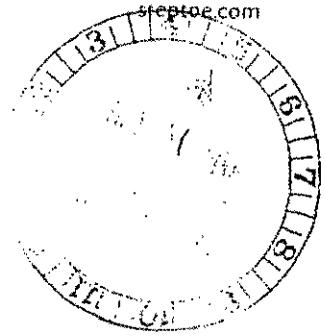
4th Report

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

David H. Coburn
202.429.8063
dcoburn@steproe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steproe.com

2/3/991



May 16, 2005

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Finance Docket No. 34040, Riverview Trenton Railroad Company -
Petition for Exemption

Dear Secretary Williams:

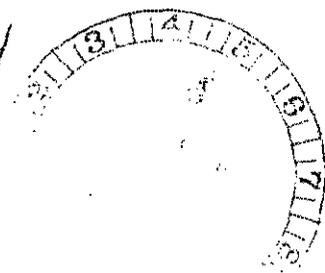
Enclosed please find the original and ten copies of the Fourth Status Report of Riverview Trenton Railroad Company filed pursuant to Condition No. 7 of the Board's May 15, 2003 decision in the above-referenced proceeding.

Sincerely,


David H. Coburn
Attorney for Riverview Trenton
Railroad Company

cc: All parties of record

213991



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34040

RIVERVIEW TRENTON RAILROAD COMPANY - PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI

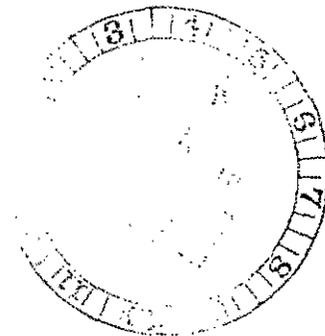
FOURTH STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY

J. William Koegel, Jr.
David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

May 16, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34040

**RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI**

**FOURTH STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY**

Pursuant to Condition No. 7 of the Board's May 15, 2003 decision granting an exemption in this proceeding for Riverview Trenton Railroad Company ("RTRR") to acquire and operate a rail line in Wayne County, MI, RTRR submits this fourth six-month report on the status of its activities. That Condition requires RTRR to report to the Board "on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels." In this Report, RTRR will describe the steps it has taken, and will be taking, toward the inauguration of rail service and the satisfaction of the relevant environmental conditions.

A. Progress Toward Inaugurating Rail Service

Petitions for judicial review of the Board's May 15, 2003 decision filed by the Local Government opponents of the rail line (County of Wayne and Cities of Trenton and Riverview) were denied by the United States Court of Appeals for the Sixth Circuit by decision issued

February 10, 2005.¹ In that decision, the Sixth Circuit affirmed the Board's issuance of a petition for exemption allowing RTRR to acquire and operate the rail line at issue. The time for filing a petition for rehearing or a petition for certiorari has now passed and thus RTRR does not anticipate any further judicial proceedings challenging the Board's decision. In light of that development, RTRR has now embarked upon more aggressive efforts to launch its rail operation.

Pursuant to a contract that RTRR has entered with a contractor for clearing debris off of the RTRR rail track, that contractor is scheduled to commence work with heavy machinery within the next several weeks. The contractor will remove the existing overlay of slag, coal, ballast and other material to expose the ties. This will allow inspection of the ties, rail, and fastenings and determination of specific replacement needs. The next step in the process will be to acquire and install the replacement materials and any additional materials needed, such as turnouts to facilitate switching within the property. Working with its track rehabilitation contractor, RTRR will also acquire and spread appropriate ballast material, level and tamp the track, and profile the ballast for best drainage. This work will also take into account the required surface on either side of the tracks for personnel and truck access, etc. RTRR intends to work diligently with its contractor to finalize this work so that operations may commence.

As reported previously, RTRR has also engaged in continued discussions with a shortline railroad operating in the Detroit area concerning a plan under which that shortline railroad might provide operational support and motive equipment to RTRR for the conduct of RTRR's rail operations. RTRR anticipates entering into an arrangement of this nature.

¹ No. 03-4174, *City of Riverview v. Surface Transportation Board, et al.*; No. 03-4198, *City of Trenton v. Surface Transportation Board, et al.*; No. 03-4206, *County of Wayne v. Surface Transportation Board, et al.*

On or about April 15, 2005, RTRR engaged a rail management expert who will work on its behalf in progressing interchange and commercial relationships with the Class I railroads in the area. This rail expert has begun working with RTRR to refine the railroad's business plan and identify business opportunities that will be mutually beneficial to it and the other railroads with which it connects. In furtherance of that objective, RTRR has had further direct communications with Class I operators over the last several months about its plans and intends to schedule additional meetings in the near term with each of the Class I railroads in the area to progress arrangements. RTRR and its affiliates have also continued to have discussions with prospective users of the line.

B. Progress in Implementing Environmental Conditions

As RTRR has previously reported, most of the environmental conditions imposed by the Board's May 15 Decision are operative only either during the stage that construction is underway or after rail operations have commenced. See environmental Condition No. 1 (notification of emergency responders in advance of using the north end grade crossing); No. 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); No. 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); No. 5 (use of berms and landscaping to minimize noise from rail/intermodal operations) and No. 6 (restrictions on hours of operation). Since RTRR has not yet begun the rehabilitation of its line or construction of its yard area, these conditions are not yet triggered.

RTRR continues to comply with the Due Care Plan that is referenced in Condition No. 2 of the Board's decision by managing the property consistent with the requirements of that Plan.

That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health and natural resources.²

C. City of Riverview Filings

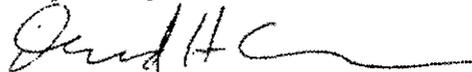
On April 25, 2005, the City of Riverview filed document styled as a "Supplemental Reply to Second Status Report of Riverview Trenton Railroad Company. RTRR had filed that Second Status Report one year ago, on May 17, 2004. Riverview argues that now that the Sixth Circuit has affirmed the Board's decision, RTRR can no longer argue that the pending appeals are a cause for delay in initiating rail operations. RTRR is in fact moving forward with its plans, as described above, now that the cloud of doubt resulting from the judicial review efforts of Riverview and other local governments have come to an end.

Riverview also complains about the height to which shipping containers are being stored on the RTRR property, claiming that these exceed a safe level and a level which RTRR committed to stacking containers. RTRR is currently reviewing its container stacking practices to ensure that safety concerns are being met. In that regard, RTRR notes that on January 23, 2005, a new zoning ordinance became effective in the City of Riverview with respect to shipping containers and that the ordinance allows such containers to be stacked up to 38 feet high. RTRR intends to schedule a meeting with appropriate officials of the City of Riverview in the near

² Detroit Steel Company ("DSC"), which owns the adjacent property, has various responsibilities under the Due Care Plan. RTRR is engaged in a dialogue with DSC and its consultants concerning the sufficiency of DSC's proposed implementation of certain elements of that Plan. Further, RTRR has concerns about DSC's financial capabilities to complete the environmental work and meet certain other obligations. This has led RTRR to pursue, together with other creditors, an involuntary bankruptcy proceeding against DSC. *In re DSC, Ltd.*, Case No. 05-42508 (E.D. MI. Bkprty. Ct.). By order dated April 26, 2005, that proceeding was dismissed by the Bankruptcy Court. The matter is now before the Court on a Petition for Reconsideration of that dismissal.

future to discuss the new ordinance. RTRR has previously replied to Riverview's other arguments concerning compliance with environmental conditions.

Respectfully submitted,



J. William Koegel, Jr.

David H. Coburn

STEPTOE & JOHNSON LLP

1330 Connecticut Avenue, N.W.

Washington, DC 20036

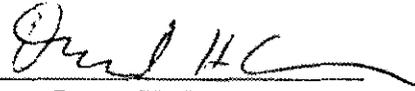
(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

May 16, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May, 2005, a copy of this Fourth Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail, postage prepaid.


David H. Coburn

6

Sixth Report
2/6 552



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34040

**RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI**

**SIXTH STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY**

ENTERED
Office of Proceedings

MAY 15 2006

Part of
Public Record

David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-8063

Attorney for Riverview Trenton
Railroad Company, Inc.

May 15, 2006

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34040

**RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI**

**SIXTH STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY**

Pursuant to Condition No. 7 of the Board's May 15, 2003 decision granting an exemption in this proceeding for Riverview Trenton Railroad Company ("RTRR") to acquire and operate a rail line in Wayne County, MI, RTRR submits this sixth report on the status of its activities over the past six months. That Condition requires RTRR to report to the Board every six months "on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels." In this Report, RTRR will describe the steps it has taken over the last six months, and additional steps that it will be taking, toward the inauguration of rail service and the satisfaction of the relevant environmental conditions.

A. Progress Toward Inaugurating Rail Service

As RTRR has previously reported, petitions for judicial review of the Board's May 15, 2003 decision filed by the Local Government opponents of the rail line (County of Wayne and Cities of Trenton and Riverview) were denied by the United States Court of Appeals for the

Sixth Circuit by decision issued February 10, 2005.¹ While RTRR was able to initiate some planning steps prior to that date, more robust activities toward initiating rail service have been undertaken since the affirmance of the Board's order and the greater certainty of RTRR's future ability to operate a rail line that has followed from that affirmance.

Activities over the last several months have remained focused on rehabilitation of the rail line. As noted below, RTRR is continuing its efforts to remove various impediments to the rehabilitation of the line.

As reported by RTRR in its last status report, DSC has initiated demolition of the old McLouth steel mill on the DSC property. This demolition work unfortunately remains one of the chief impediments to rehabilitation of the RTRR line and the initiation of operations. As reported previously, this demolition work involves continual heavy truck and tracked vehicle activity across the track on the DSC property over which RTRR has an easement to operate its rail line. Due to on-going damage to the track being experienced as a result of this demolition-related traffic, rendering the track unserviceable, rehabilitation work on the DSC section of track being crossed by that traffic cannot commence until DSC's demolition work is completed. RTRR reported in its status report filed in November 2005 that completion of the demolition in the area adjacent to the easement was expected in the several months following that report. However, the work has not yet been completed by DSC, apparently having been slowed by the presence of asbestos in some of the structures that require removal. Once the work is done, RTRR can commence rehabilitation of the track in the area of the DSC facility and southward

¹ No. 03-4174, *City of Riverview v. Surface Transportation Board, et al.*; No. 03-4198, *City of Trenton v. Surface Transportation Board, et al.*; No. 03-4206, *County of Wayne v. Surface Transportation Board, et al.* As reported previously, all litigation over the Board's decision has now come to an end.

from there to the grade-separated connection with the Class I carriers at the south end of the property.

Another impediment to rehabilitation of the track has been the inability of RTRR to use the at-grade north end crossing of Jefferson Avenue to bring construction materials on to the property so that rehabilitation of the track can begin in the areas not affected by the DSC demolition work. As noted in its last report, the north end connection provides direct access to the RTRR property, where equipment needed for track rehabilitation can be staged and supplies stored (in contrast to the south end connection, which connects to the portion of RTRR's line on the DSC property). Further, by opening the north end connection, RTRR may be able to initiate limited operations sooner as the track and roadbed on the north end of the RTRR line is now in a better state of repair than the portion of the line on the DSC property.

RTRR hired environmental engineers to study a water leak in the area beginning several months ago. It did so because it had identified certain portions of the land on its property at the north end connection as being sufficiently caustic to have caused an unusually extensive deterioration of the railroad ties. In addition, there is a persistent presence of water in the area. RTRR expects to shortly receive a permit from the Wayne County Drain Commission allowing for an underground video inspection of the area underneath the connection to determine the source of the water and contamination.

RTRR hired the Alfonsi Railroad Construction Co., a well-known rail rehabilitation firm, on November 10, 2005 to provide for the removal of the track proximate to the north end connection on the RTRR property so that this remediation work can proceed. Once the remediation is completed, the track will be re-laid and the ties replaced, as needed. RTRR intends to proceed with this work promptly after the remediation is completed.

RTRR has also taken steps to seek permission from the State of Michigan Department of Transportation (MDOT) to reopen the crossing with appropriate protection for the traffic on Jefferson Avenue. Before filing to reopen the crossing it worked cooperatively with CN to amend MDOT's records to reflect the transfer ownership of the crossing from CN to RTRR. RTRR then made a filing with MDOT several months ago to reopen the crossing. MDOT in turn organized a Diagnostic Team to visit the site and make assessments of the nature of protection required for the crossing. Representatives of the Cities of Riverview and Trenton, together with representatives of Wayne County and Grosse Isle, appeared at the site visit, which took place on March 1, 2006. The local government representatives voiced concerns with safety with respect to the reopening of the crossing. Upon full review of the relevant circumstances, on May 8, 2006, MDOT issued the attached Regulatory Findings Report recommending that the crossing be reopened subject to the type of safety protection specified in the Report. A final order with respect to the crossing is expected to be issued by MDOT within the next several weeks.

Once the north end connection is reopened, RTRR intends to commence track rehabilitation work along the entire line, beginning at the northern end of its line and moving south from there for the length of the line. As previously described, RTRR will acquire and install new and/or fit relay rails and ties (as required) and any additional track materials needed, such as turnouts, to facilitate switching within the property. RTRR will also acquire and spread appropriate ballast material, level and tamp the track, and profile the ballast for best drainage.

Once the opening of the crossing to rail traffic is closer to fruition, RTRR will work with local emergency services providers to develop notification procedures as required by the STB's conditions. RTRR will also maintain an ongoing dialogue with the nearby communities

regarding issues such as landscaping, emergency services on site and general construction and environmental matters.

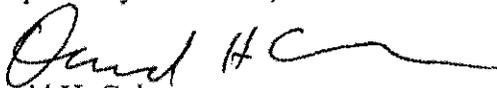
RTRR's management is continuing to assess business opportunities for the facility, and working with its business consultant to do so. These efforts will switch into high gear once the rehabilitation work is underway and a definitive timetable for opening the facility and operating the rail line can be determined. As reported previously, RTRR anticipates working with established shortline operators in the Detroit region, which would provide operational support and motive equipment to RTRR for the conduct of RTRR's rail operations. RTRR is also mindful of recent reports that efforts are underway to develop a similar (and potentially competitive) independent intermodal facility in Monroe County, MI, south of the Detroit area. RTRR will pursue its efforts to move forward with its plans as promptly as possible.

B. Environmental Conditions

Most of the environmental conditions imposed by the Board's May 15 Decision are by their terms not yet operative. See environmental Condition No. 1 (notification of emergency responders in advance of using the north end grade crossing); No. 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); No. 4 (compliance during development of the site with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward with its rail project); No. 5 (use of berms and landscaping to minimize noise from rail/intermodal operations) and No. 6 (restrictions on hours of operation of the railroad and intermodal yard). RTRR will comply with these conditions at such point as its obligations are triggered.

RTRR continues to comply with the Due Care Plan that is referenced in Condition No. 2 of the Board's decision by managing the property consistent with the requirements of that Plan. That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health and natural resources.

Respectfully submitted,



David H. Coburn
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-8063

Attorney for Riverview Trenton
Railroad Company, Inc.

May 15, 2006



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

GLORIA J. JEFF
DIRECTOR

May 8, 2006

Mr. Dean Workman, Manager
City of Riverview
14100 Civic Park Drive
Riverview, MI 48192

Mr. Thomas Christ, V.P. Corp. Development
Riverview Trenton Railroad Company
c/o CenTra Transport
12225 Stephens Road
Warren, MI 48089

Ms. Vicky Holland, Engineer of Traffic
Wayne County Dept. of Public Services
Roads Division
29900 Goddard Road, Bldg. 4
Detroit, MI 48242

Dear Mr. Workman, Mr. Christ and Ms. Holland:

**Proposed Re-established Crossing of Riverview Trenton Railroad Company with
West Jefferson Avenue, located in the City of Riverview, Wayne County, Michigan.
(Michigan Department of Transportation File RR12078; NI 258102J)**

REGULATORY FINDINGS REPORT

A Diagnostic Study Team Review (DSTR) was held at the above crossing on March 1, 2006. The review was scheduled by the Michigan Department of Transportation's (MDOT) Freight Services and Safety Division, at the written request of the Riverview Trenton Railroad Company, to review a request to reestablish the Jefferson Avenue crossing.

The DSTR Team was unable to come to a group consensus regarding the reestablishment of the crossing. Consequently, MDOT has made a regulatory finding (per MCL 462.301(2)) and determined that the proposed reestablished crossing is necessary, feasible and can be made reasonably safe. Therefore, MDOT grants the Riverview Trenton Railroad's request to reestablish the crossing. The attached Diagnostic Study Team Review Crossing Evaluation Report documents MDOT's determination. Please review it carefully and share it with appropriate staff at your organization.

All signal and signing devices ordered in the report must be installed and maintained in conformance with the Michigan Manual of Uniform Traffic Control Devices, Part VIII and the Michigan Department of Transportation Guidelines for the Utilization and Installation of Traffic Control Devices at Highway-Railroad Grade Crossings. All installation, maintenance, renewal, and repair of roadbeds, tracks, culverts, and certain streets or sidewalks must be in conformance with MCL 462.309.

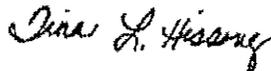
The cost of all adjustments and improvements at grade crossings are funded as provided in MCL 462.309, et seq, unless otherwise agreed to by the parties.

Jefferson Avenue
File RR12078
DSTR Held 03/01/2006
Page 2

Please contact me at (517) 335-2592, within 15 days if you believe changes are needed to the DSTR report. Any specific objections to the conclusions, ordered work items, time frames, or funding sources should be addressed in writing to Tina Hissong, Manager, Rail Safety Section, Freight Services and Safety Division, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan 48909. If no written objections are received within 15 days from the date of this report, MDOT will prepare an Order, in accordance with MCL 462.301(2).

All items listed in the "Ordered Items" section of the Diagnostic Study Team Review Crossing Evaluation Report must be completed within 24 months from the date of the Order unless a written request for a time extension is received from the railroad or road authority and granted by MDOT.

Sincerely,



Tina L. Hissong, Manager
Rail Safety Section
Freight Services and Safety Division
Multi-Modal Transportation Services Bureau

cc: Mailing List

Diagnostic Study Team Review Crossing Evaluation Report

Medical Director of Transportation: FILE # 12078 Description: 2006-12078-West Jefferson Avenue DIST. DATE: 03/01/2006 Page 1

DIAGNOSTIC STUDY TEAM REVIEW

Requested By: RiverView Trenton Railroad Company Purpose: Road Improvement Project

CROSSING IDENTIFICATION

N.I. Number: 2561020 Property Posted: No Crossing Type: Active Vehicle
 Road Name: Jefferson Avenue Road Authority: Wayne County Department of Public Services City: RiverView
 County: Wayne Township(s): Section(s): 00
 Nearby Roadways/Div. Road Authority Owner: RiverView Trenton Railroad Company - MCLOUTH STEEL/SPUR
 Tully Bridge Road / W Wayne County Department of Public Services Primary RR: RiverView Trenton Railroad Company
 Sibley Road / E Wayne County Department of Public Services Maint. Party: RiverView Trenton Railroad Company - MCLOUTH STEEL/SPUR
 Railroad(s) Operating Over Same Tracks: CN, CR Railroad(s) Operating Over Separate Tracks: NONE

NEW HAMPSHIRE INDEX / CRASH STATISTICS

N.I. Number: 2561020
 NEW HAMPSHIRE INDEX
 Daily Train Moves: 6.061 Traffic Count: 8163 Protection Factor: 1.00 Exposure Factor: 545 Non-Motorized Comments: None Reported
 Nearby Crossings Equipped With Automatic Warning Devices: None
 LL (Class), is there adequate access to nearby crossing? N/A Which Crossing? N/A
 FIVE YEAR CRASH HISTORY
 Total Crashes: 0 Fatal Crashes: 0 Personal Injury Crashes: 0 Property Damage Only: 0
 # of Persons Fatally Injured: 0 # of Persons Injured: 0
 Crash Data Comments: N/A

ROADWAY INFORMATION

N.I. Number: 2561020
 Total # of Lanes: 4 Turn Crossing: 4 Turn Lanes: 0 Parking Lanes: 0 One Way: No Boulevards: No Sidewalk: No Curb: Yes
 Roadway Width: 70 Ft. Dir. of Roadway: W-E Vehicle Speed: 25 MPH Posted: Yes Shoulder Width: 0 Ft. Shoulder Mat.: N/A
 Road Paved: Yes Roadway Approaches: 20 Curve Level / W Curve Level
 Special Vehicle User: Tanker trucks turning off Jefferson Avenue onto Payne Street to access James Chemical Company.
 Approaches Conform to AASHTO: Yes Traffic Count: USRP Count Year: 2004 Source: County # Tracks: 1
 Overhead Lighting: Yes

CROSSING INFORMATION

N.I. Number: 2561020
 Railroad Approaches: Curve Direction of Tracks: N/S Railroad Division: MIDWEST Railroad Subdivision: RIVER
 Total Number of Tracks: 1 Number of Main Tracks: 1 Cot-Off/Unroad Tracks: 0 Number of Siding Tracks: 0 Number of Spur Tracks: 0
 Crossing Status: Active Crossing Angle: 90° Simultaneous Occupancy: No Can one train block motorist view of another train? N/A
 Explain Blockage: N/A
 Maximum Time Table: 10 MPH Typical Speed: 10 MPH Passenger Train Speed: N/A Freight Train Speed: 10 MPH
 Freight Train Movements: 2 Monthly Passenger Train Movements: None Switching Movements: None

TRACK	FLANGWAY MATERIAL	CROSSING MATERIAL	CROSSING LENGTH	CONDITION
Main 1	Rubber	Concrete	95	Good

STATIC WARNING DEVICES

CROSSINGS	AMS	W-10-4	DAVIDBERT	STOP	NO PASS	TRACK	INVENTORY	STOP	STOP	STOP	DON'T STOP	YIELD	YIELD
			WARNING	WORK	LINGS	SIGN	TAGS	PLAC	SIGN	AHEAD	ON TRACKS	SIGN	AHEAD
2561020	0	0	0	0	0	2	0	0	W	0	0	0	0

AUTOMATIC WARNING DEVICES

FLASHING LCT	FLASHING LCT	LINE	SIDE	CANTILEVERS	CANTILEVERS	GATES	BELLS/ STOP ON RED	STOP ON RED	NO TURN		
BACK-TO-BACK	SINGLE FACE	SIZE	LIGHTS	BACK-TO-BACK	SINGLE FACE		BELLS	BLACK/WHITE	WHITE/BLACK	SIGNS	OTHER
2561020	0	0	N/A	0	0	0	0	0	0	0	0

SIGHT DISTANCE INFORMATION

N.I. Number: 2561020
TRAIN INFORMATION
 Maximum Time Table Train Speed: 10 MPH Train Direction: Both Typical Train Speed Over Crossing: 10 MPH For Which Direction: Both
ROAD INFORMATION
 Direction of Motor Vehicle Movement: NR Highway Speed: 25 MPH Posted: Yes Statutory: No Distance Down Highway: 274 Ft.
 Typical Speed For Actual Conditions: 15 MPH Adjusted Distance Down Highway: 90 Ft.
 Is Advance Warning Sign Visible before Distance Down Highway: Yes Are Crossing Warning Devices Visible At Distance Down Highway: Yes
 Direction of Motor Vehicle Movement: SW Highway Speed: 15 MPH Posted: Yes Statutory: No Distance Down Highway: 274 Ft.
 Typical Speed For Actual Conditions: 15 MPH Adjusted Distance Down Highway: 90 Ft.
 Is Advance Warning Sign Visible before Distance Down Highway: Yes Are Crossing Warning Devices Visible At Distance Down Highway: Yes

SIGHT DISTANCES

DIST	NO OBSTACLE	PRIV	IN CONTACT	PRIV	IN CONTACT	TRIV	SC OBSTACLE	PRIV
------	-------------	------	------------	------	------------	------	-------------	------

Diagnostic Study Team Review Crossing Evaluation Report

Michigan Department
of Transportation

FILE#: 12078

Description: 2006-12078--West Jefferson Avenue

DSTR DATE: 03/01/2006

Page 2

SIGHT DISTANCE INFORMATION

BAR	140'	No	240'	No	250'	No	240'	No
974	20'	Yes	100'	No	100'	No	20'	BAUSH
	0'	No	0'	No	0'	No	0'	Yes
								No

ROAD PROJECT

THERE IS NO ROAD PROJECT INFORMATION TO REPORT.

ADDITIONAL INFORMATION

N.I. Number: 2081023

Signal Lines Joked: N/A
Track Circuit Approach Length: N/A
Track Circuit Approach Improvement: N/A

Type of Track Circuit: N/A

Excessive Signal Activation: N/A

Intersecting Roadway Storage Issue TAGM: No
Storage Space Issue Explanation: N/A

Distance Between Road And Track: N/A

DSTR COMMENTS

This Diagnostic Study Team Review was scheduled by the Michigan Department of Transportation's (MDOT) Freight Services and Safety Division at the request of the Riverview Trenton Railroad Company (RTR) to reestablish a railroad crossing at Jefferson Avenue in the City of Riverview.

RTR received a decision from the Surface Transportation Board with a Service Date of May 15, 2003 (Docket Number FD_34040_0) that states:

"We are granting the petition of Riverview Trenton Railroad Company (RTR) for an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire and operate a line of railroad in Wayne County, MI, subject to environmental and monitoring conditions and the requirement that RTR designate a community liaison."

RTR is a newly established railroad company. Canadian National Railroad (CN) was the previous owner of the Jefferson Avenue crossing prior to its removal. CN has informed MDOT that the reestablished crossing would be under the ownership and maintenance responsibilities of RTR. CN's right-of-way ends at the north side of Jefferson Avenue. CN will continue to maintain its own track up to the new crossing.

RTR informed the DSTR Team that the proposed reestablished crossing will travel in a north/south direction with a speed limit of 10 mph. Jefferson Avenue is a four-lane road traveling in an east/west direction with a speed limit of 35 mph and a 2004 traffic count of 8,169 vehicles per day. Vehicle speed actually slows down to approximately 15 mph where the proposed crossing would be located, due to a curve in the roadway at that location. RTR expects to start operations with approximately two trains per month during construction of their yard facilities and then increase to two trains per day when in full operation. RTR will attempt to make most of their switching moves at the south end of the property, over the bridge at Jefferson Avenue to keep the traffic congestion to a minimum at the north Jefferson Avenue crossing.

Opposition to the crossing was expressed at the DSTR from the City of Trenton and the City of Riverview. Both agencies object to the development of the property for industrial use. Due to their objections, consensus was not reached by the DSTR Team. Therefore, MDOT has made a regulatory finding (per MCL 462.301(2)) regarding the proposed reestablishment of the crossing. MDOT has the regulatory responsibility to determine if the proposed reestablished crossing is necessary, feasible and can be made reasonably safe (per MCL 462.307(4)).

MDOT finds that the requested crossing is necessary to provide a second access to the RTR yard, which would allow RTR to continue conducting interstate commerce should their south-end crossing over Jefferson Avenue become inaccessible. The requested crossing is feasible and can be made reasonably safe with the following enhancements.

RTR will install a new crossing surface. A concrete crossing surface was discussed at the DSTR because participants felt that would be the most durable surface material due to the crossing being located in the middle of a curve.

Diagnostic Study Team Review Crossing Evaluation Report

Michigan Department
of Transportation

FILE #: 12078

Description: 2006-12078--West Jefferson Avenue

DSTR DATE: 03/01/2006

Page 3

DSTR COMMENTS

RTR will use the crossing approximately two times per month during the construction phase of the project to bring in rail, ties and other construction materials. During the construction phase, RTR will be required to use a stop-and-flag procedure to protect the crossing for vehicular traffic. Once the construction period is done and the property goes into full operation, RTR will be required to install new side-of-street flashers and cantilevers with proper signage and bells to protect the crossing. The stop-and-flag order will be rescinded once the automatic warning devices are operational. Twenty-four months will be allowed to complete the installation of the automatic warning devices, however devices should be installed as soon as the yard goes into full operation (should that happen prior to 24 months from the date of the forthcoming order).

Wayne County will install crossbucks, advance warning signs, pavement markings and stop bars when the new crossing surface is installed.

Wayne County has a construction project starting in the late fall on the Grosse Ile Parkway bridge that will shut the bridge down for most of the winter and divert traffic to the toll bridge that comes out on Jefferson Avenue next to the new crossing. RTR has agreed to complete their crossing project prior to the Grosse Ile Parkway bridge construction to keep traffic congestion to a minimum. They will also provide access over the crossing for emergency vehicles during construction. The Surface Transportation Board Decision Document states that RTR must contact the cities and townships in the surrounding area two hours prior to train moves over the crossing so emergency vehicles can plan alternate routes if the crossing is blocked.

Note: Since the crossing is currently not in place, projected numbers were used to complete this form.

ORDERED ITEMS

N.I. Number: 258102J

WAS CONSENSUS REACHED: No

Flashing Lights	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: RTR install 12" back-to-back side-of-street flashers for both directions.		
Resp. Party: Riverview Trenton Railroad Company		
Cantilevers	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: RTR install cantilevers with 12" back-to-back flashers for both directions.		
Resp. Party: Riverview Trenton Railroad Company		
Side Lights	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: RTR install side lights for traffic coming off Payne Street and Ford Street.		
Resp. Party: Riverview Trenton Railroad Company		
Bells/Congs	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: RTR to install new bells for both directions of traffic.		
Resp. Party: Riverview Trenton Railroad Company		
Stop On Red Signs	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: RTR install Stop On Red Signal signs for both directions of traffic.		
Resp. Party: Riverview Trenton Railroad Company		
Crossbucks	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: RTR install crossbucks at the crossing for both directions of traffic.		
Resp. Party: Riverview Trenton Railroad Company		
Advanced Warning Signs	Action Required: Install	
Type: Safety	Funding: RR	TimeFrame: 24 Months
Explanation: Install advance warning signs in both approaches to the crossing.		

Diagnostic Study Team Review Crossing Evaluation Report

Michigan Department
of Transportation

FILE #: 12078 Description: 2006-12078--West Jefferson Avenue

DSTR DATE: 03/01/2006

Page 4

ORDERED ITEMS

Resp. Party: Wayne County Department Of Public Services

Pavement Markings Action Required: Install
 Type: Safety Funding: RA TimeFrame: 24 Months
 Explanation: Install pavement markings in the approaches for both directions of traffic.

Resp. Party: Wayne County Department Of Public Services

Stop Bars Action Required: Install
 Type: Safety Funding: RA TimeFrame: 24 Months
 Explanation: Install new stop bars at the crossing for both directions of traffic.

Resp. Party: Wayne County Department Of Public Services

Inventory Tags Action Required: Install
 Type: Routine Funding: RR TimeFrame: 24 Months
 Explanation: RTR apply for and install new inventory tags on both crossbucks.

Resp. Party: Riverview Trenton Railroad Company

Crossing Protection Action Required: Stop and Flag Order
 Type: Safety Funding: RR TimeFrame: 24 Months
 Explanation: RTR use Stop-and-Flag procedure to cross Jefferson Avenue until AMD in place.

Resp. Party: Riverview Trenton Railroad Company

Rail Sight Obstructions Action Required: Remove in all Quadrants
 Type: Routine Funding: RR TimeFrame: 24 Months
 Explanation: RTR remove vegetation close to crossing in all quadrants for vehicle vision.

Resp. Party: Riverview Trenton Railroad Company

BAIS FOR ORDERED MAINTENANCE DEFICIENCIES:

Ordered maintenance deficiencies based on "Michigan Department of Transportation Guidelines for the Utilization and Installation of Traffic Control Devices at Highway-Railroad Grade Crossings", "Michigan Manual for Uniform Traffic Control Devices", professional analysis, and data provided at the evaluation.

ORDER TO BE ISSUED: YES

ATTENDEES

Mr. Dean Workman, Manager
 City of Riverview
 14100 Civic Park Drive
 Riverview, MI 48172
 Phone #: (313)291-4259
 E-Mail: dworkman@cityofriverview.com

Mr. Thomas Christ, V.P. Corp. Development
 Riverview Trenton Railroad Company
 c/o Centre RTRR
 12225 Stephens Road
 Warren, MI 48093
 Phone #: (588)938-7000

Mr. Andrew Gault, CIVIL Engineer
 City of Trenton
 2400 Third Street
 Engineering Department
 Trenton, MI 48122
 Phone #: (734)475-8251

Mr. Wallace Long, City Attorney
 Howard S. Howard
 18480 Woodward Avenue
 Suite 101
 Bloomfield Hills, MI 48304
 Phone #: (248)722-6721
 E-Mail: wlong@aol.com

Mr. Bob Gmy, City of Trenton
 2800 Third Street
 Engineering Department
 Trenton, MI 48122
 Phone #: (734)475-0251
 E-Mail: bccmy@trenton-mi.com

Mr. Steve Nowakowski, Railroad Safety Inspector
 NDOT Rail Safety Section
 125 West Ottawa Street
 P.O. Box 30090
 Lansing, MI 48909
 Phone #: (517)743-0620
 E-Mail: swnowak@mi DOT gov

Mr. Fred Killeen, Asst. Traffic Engineer
 Wayne County Dept. of Public Services
 Roads Division
 29900 Goddard Road, Bldg. 4
 Detroit, MI 48242
 Phone #: (734)555-2161
 E-Mail: fkill@mi DOT gov

Mr. Gerald Brown, Mayor
 City of Trenton
 2300 Third Street
 Trenton, MI 48122
 Phone #: (734)678-6100
 E-Mail: gbrown@trenton-mi.com

Mr. Brian Staszewski, Engineer
 Wade Tris
 23251 Northline
 Taylor, MI 48180
 Phone #: (734)947-9700

Mr. Dick Bertschl, Manager
 Riverview Trenton Railroad Company
 c/o Centre RTRR
 12225 Stephens Road
 Warren, MI 48093
 Phone #: (588)938-7000

Diagnostic Study Team Review Crossing Evaluation Report

Michigan Department
of Transportation

FILE #: 12078

Description: 2006-12078 - West Jefferson Avenue

DSTR DATE: 03/01/2006

Page 5

ATTENDEES

Mr. Gary Alford,
Alford Railroad Construction Company
23501 Pennsylvania Road
Brownstown, MI 48107
Phone #: (734)281-8902

Mr. Greg Alford,
Alford Railroad Construction Company
23501 Pennsylvania Road
Brownstown, MI 48107
Phone #: (734)281-8902

Mr. Steven Loveland, P.E., Traffic Project Engineer
Orchard, Hill & McIlwain, Inc.
3400 Plymouth Road
Livonia, MI 48150
Phone #: (734)999-4415
E-Mail: loveland@ohm-eng.com

Mr. Dale Hartman, Interim Township Manager
Township of Grosse Ile
9601 Grob Road
Grosse Ile, MI 48138
Phone #: (734)876-4922
E-Mail: daher@roselle.com

Mr. Dylan Horden,
L&L Fleming
206 S. Washington, #301
Royal Oak, MI 48068
Phone #: (248)844-0800
E-Mail: horden@lflplanning.com

Michigan Department
of Transportation
1426 (03/05)

FORMAL INVESTIGATION CHECKLIST

N.I. # 258102J

ROAD NAME JEFFERSON AVENUE		ROAD AUTHORITY CITY OF RIVERVIEW	
RR# 12078	RAILROAD RIVERVIEW TRENTON RAILROAD COMPANY	DATE 3-1-2006	
REQUESTED NEW CROSSING		<input type="checkbox"/> APPROVED	<input type="checkbox"/> DENIED

ACTIVE TRAFFIC CONTROL DEVICES

	FUNDING		FUNDING
<input checked="" type="checkbox"/> Install Flashing Lights, Bells and Signs	RTR	<input type="checkbox"/> Install Half-Roadway Gates	
<input checked="" type="checkbox"/> Install Cantilever(s) with Flashing Lights	RTR	<input type="checkbox"/> Install 3/4 Roadway Gates	
<input type="checkbox"/> Install Pre-Signal & Interconnect		<input type="checkbox"/> Install Full-Roadway Gates	
<input checked="" type="checkbox"/> Install Sidelight(s) in _____ Quadrant(s)	RTR	<input type="checkbox"/> Other	
<input type="checkbox"/> Other		<input type="checkbox"/> Other	

PASSIVE TRAFFIC CONTROL DEVICES

	FUNDING		FUNDING
<input checked="" type="checkbox"/> Install Crossbucks (R15-1)	WC	<input checked="" type="checkbox"/> Install Advance Warning Signs	
<input checked="" type="checkbox"/> Install Pavement Markings	WC	<input type="checkbox"/> W10-1	WC
<input type="checkbox"/> Install No Passing Lines		<input type="checkbox"/> W10-2	
<input checked="" type="checkbox"/> Install Stop Bars	WC	<input type="checkbox"/> W10-3	
<input type="checkbox"/> Install Do Not Stop On Track Signs (R8-8)		<input type="checkbox"/> W10-4	
<input type="checkbox"/> Install Number of Tracks Sign (R15-2)		<input checked="" type="checkbox"/> Install NI Tags	RTR
<input checked="" type="checkbox"/> Remove Vegetation in _____ Quadrant(s)	RTR	<input type="checkbox"/> Other	
<input type="checkbox"/> Other		<input type="checkbox"/> Other	

COMMENTS

CERTIFICATION

I certify that this represents the outcome of this Formal Investigation.

MOOT RAILROAD SAFETY INSPECTOR <i>[Signature]</i>	DATE 3-1-06
--	-----------------------

I have received a copy of this form:

RAILROAD REPRESENTATIVE <i>[Signature]</i>	DATE 3/1/2006
ROAD AUTHORITY REPRESENTATIVE <i>[Signature]</i>	DATE 3/01/06
OTHER	DATE

NOTE: All participants will be allowed a 15-day comment period following the issuance of the Formal Investigation Report.

PROOF OF SERVICE

Mindy Mazurek, being first duly sworn, deposes and says that she served true and complete copies of the annexed and foregoing document, by depositing the same in the United States mail in the City of Lansing, Michigan, enclosed in envelopes bearing postage, fully prepaid, and plainly addressed as listed above.

Mindy Mazurek
Mindy Mazurek

Date: 5-8-06

State of Michigan)
)ss:
County of Ingham)

Subscribed and sworn to before me, a Notary Public in and for the County of Eaton, acting in the County of Ingham.

[Signature]
Notary

My Commission Expires: 9-24-2010

DENSE R. CURE
NOTARY PUBLIC, STATE OF MI
COMMISSION EXPIRES
MAY 24 2010
Ingham

MAILING LIST

file,

imaging,

Mr. Dean Workman, Manager
City of Riverview
14100 Civic Park Drive
Riverview, MI 48192

Mr. Gerald Brown, Mayor
City of Trenton
2800 Third Street
Trenton, MI 48183

Mr. Steve Nowakowski, Railroad Safety Inspector
MDOT Rail Safety Section
425 West Ottawa Street
P.O. Box 30050
Lansing, MI 48909
E-Mail: nowakowskist@michigan.gov

Ms. Nanette Guggenos, Analyst
MDOT Rail Safety Section
425 West Ottawa Street
P.O. Box 30050
Lansing, MI 48909
E-Mail: guggenosn@michigan.gov

Mr. Thomas Christ, V.P. Corp. Development
Riverview Trenton Railroad Company
c/o Central Transport
12225 Stephens Road
Warren, MI 48089

Mr. Dale Reaume, Interim Township Manager
Township of Grosse Ile
9601 Groh Road
Grosse Ile, MI 48138

Ms. Vicky Holland, Engineer of Traffic
Wayne County Dept. of Public Services
Roads Division
29900 Goddard Road, Bldg. 4
Detroit, MI 48242

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2006, a copy of this Sixth Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail; postage prepaid.



David H. Coburn

7

(F)

PENTIUK, COUVREUR & KOBILJAK

PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW
www.pck-law.com

EDELSON BUILDING, SUITE 200
2915 BIDDLE AVENUE
WYANDOTTE, MICHIGAN 48192

TELEPHONE: (734) 281-7100
FACSIMILE: (734) 281-7102
EMAIL: firm@pck-law.com

RANDALL A. PENTIUK*
JOSEPH G. COUVREUR
KURT M. KOBILJAK
KERRY L. MORGAN*† ‡
MICHAEL P. HURLEY
JAYSON J. HALL
CREIGHTON D. GALLUP
APRIL E. KNOCH

* ALSO ADMITTED TO PRACTICE
IN THE DISTRICT OF COLUMBIA

† ALSO ADMITTED TO PRACTICE IN VIRGINIA

‡ OF COUNSEL TO THE FIRM

September 14, 2006

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

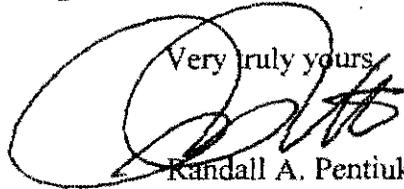
Re: Finance Docket No. 34040, Riverview Trenton Railroad Company –
Petition for Exemption

Dear Secretary Williams:

Enclosed please find the original and ten copies of the City of Riverview's First Supplemental Reply to Sixth Status Report of Riverview Trenton Railroad Company in connection with the above-referenced matter.

Thank you for your courtesies in this matter. Should you have questions regarding the foregoing, please contact the undersigned.

Very truly yours,



Randall A. Pentiuik
City Attorney
City of Riverview

RAP:klz

Enclosures

cc: David H. Coburn, Esq. (w/encl.)

Z:\4-R-Z\clients\R\V\W\LT\NDSC\Property\LtrtoSTB.wpd

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34040

**CITY OF RIVERVIEW'S
FIRST SUPPLEMENTAL REPLY TO SIXTH STATUS REPORT
OF RIVERVIEW TRENTON RAILROAD COMPANY**

NOW COMES the City of Riverview ("Riverview"), and upon review of the "Sixth Status Report of Riverview Trenton Railroad Company", provides the following first supplemental reply:

**RTRR SETS FORTH A TIME LINE FOR THE REPAIR
AND RE-OPENING OF THE RAIL AT THE NORTH END
CROSSING AT JEFFERSON AVENUE BUT CONTINUES TO FAIL
TO SET FORTH A TIME LINE FOR THE START OF RAIL
OPERATIONS FOR THE ENTIRE LINE, INCLUDING THE SOUTH END**

As set forth in the City of Riverview's last filing, RTRR can no longer rely upon its bedrock excuse that petitions for judicial review of the Board's May 15, 2003, decision were delaying the start of rail operations. Now, over nineteen (19) months after the Sixth Circuit Court of Appeals affirmed the Board's ruling, RTRR has still not begun rail operations.

RTRR reports that it has *finally* gotten steps underway toward initiating progress toward the rehabilitation of the track at the north end crossing of Jefferson Avenue and that MDOT has granted its request to reestablish the crossing. MDOT has established a 24 month deadline from the date of the Order for all items listed in the "Ordered Items" section of the Diagnostic Study Team Review Crossing Evaluation Report (attached to RTRR's Sixth Status Report) to be *completed*.

However, RTRR continues to blame DSC's demolition of McLouth Steel for its failure to begin work on the rehabilitation of the south end of the track. In addition, RTRR contends that it does not intend to commence track rehabilitation work along the entire line, beginning at the

northern end of its line and moving south from there for the length of the line *until the north end connection is reopened*. The north end connection is not scheduled to be reopened for *at least two years*. What is the reason for waiting so long? RTRR gives no reason.

Furthermore, RTRR still hasn't done anything regarding issues such as landscaping, emergency services on site and general construction and environmental matters but continues to state that it will maintain an ongoing dialogue with nearby communities. The City of Riverview is not aware of any such dialogue.

As far as business developments are concerned, RTRR continues to *anticipate* working with shortline operators in the Detroit region. RTRR continues to be remiss in providing specifics.

More than nineteen (19) months have passed, and the only area RTRR has managed to make any progress in is the north-end crossing at Jefferson Avenue which is at least two years away. Further, it doesn't plan on getting any other rehabilitation work underway and will have no timetable for opening the facility and operating the rail line until *after* the reopening of the north-end crossing. This has the potential to go on indefinitely.

**RTRR CONTINUES ITS NON-COMPLIANCE WITH
BOARD MANDATED ENVIRONMENTAL CONDITIONS**

As stated in the City of Riverview's supplemental response to RTRR's second status report, rail operations are the only aspect of RTRR's intermodal facility which has experienced any delay in the initiation of operations. RTRR continues to use the RTRR site to house and stack shipping containers and there is heavy truck volume at the site. RTRR has stated that it "believes that its practices in this regard are safe and consistent with industry practices." (RTRR's Fifth Status Report, pg. 6). Again, RTRR offers no specifics and does not refute the City of Riverview's

contention that RTRR invoked STB jurisdiction for the primary purpose of usurping local governmental regulation and, given the indefinite time period in which RTRR intends to take to repair the track from the north-end to the south-end, RTRR may have no intention to conduct rail operations on the site.

Further, RTRR continues to maintain that the majority of the environmental conditions prescribed by the Board are yet to be triggered. This position ignores the fact that many of the conditions were designed to reduce the adverse effects on the community stemming from all operations at the site, not just rail operations. There is a good deal of heavy truck traffic at the facility, yet RTRR has still refused to use landscaping such as berms and vegetation, as appropriate, to minimize noise as required. Perhaps this would also serve to minimize the unsightly appearance of the facility.

On August 14, 2006, and August 22, 2006, the City of Riverview obtained pictures of the site on which RTRR is located. A map of the Riverview/Trenton Railroad Property, August, 2006, as well as copies of 46 photographs of the site are attached hereto under tab 1. The photographs are numbered 1 through 46 to correspond with the map. As shown by all 46 pictures, the property upon which RTRR is located is unsightly. The vegetation is overgrown throughout the site and is even growing through the fence. (Pictures 1-46). There are holes in portions of the fence and the fence is rusted to the point where the fence is falling. (Pictures 14-17, 27, 29, 30, 32 and 40-44). There is all manner of debris on the site. (Pictures 5, 24-31, 36, 41-44, and 46). There is a swamp on site which is overgrown with tall weeds and debris. (Pictures 7 and 43-46). There are broken down trailers being stored at the site, some of which are left open and are an open invitation to people such as vagrants and children, as well as wild vermin, to come on to the site. (Pictures 2-4, 6, 11, 16-17,

and 23). There are storage containers, heavy equipment and semi-trucks being stored at the site. (Pictures 2-3, 6, 11, 16-20, 22-23, 31-32 and 45). There is a boom left in the nearby creek which indicates that there is some leakage into the water stream that is attempting to be contained. (Picture 7). The property that runs right up to Jefferson, across the street from residential homes, is over run with tall vegetation which is unsightly, and which also may impair motorists' ability to observe oncoming traffic on Jefferson, thereby creating a traffic and safety hazard. (Pictures 9-10 and 44-45).

It is also interesting that RTRR claims to be putting forth great effort in the planning stages of rail operations, but says nothing of meetings with contractors and local officials in anticipation of compliance with the environmental conditions.

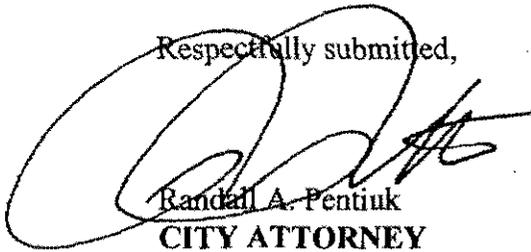
As noted in the City of Riverview's previous filing, the environmental conditions imposed by the Board are not dependent upon rail operations and should be immediately implemented by RTRR.

CONCLUSION

Riverview respectfully requests that this Honorable Board order RTRR to provide more detailed reports regarding the planning stages of all rail operations and to take immediate corrective

action to cure its non-compliance with the environmental conditions set by the Board.

Respectfully submitted,



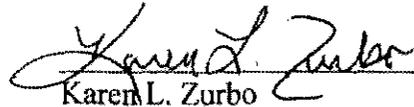
Randal A. Pentiuik
CITY ATTORNEY
CITY OF RIVERVIEW
2915 Biddle Avenue, Suite 200
Wyandotte, MI 48192
(734) 281-7100

Dated: September 15, 2006

Z:\4-R-ZClients\RVWLIT\DSCProperty\FirstSupplementalReplytoSixthStatusReport.wpd

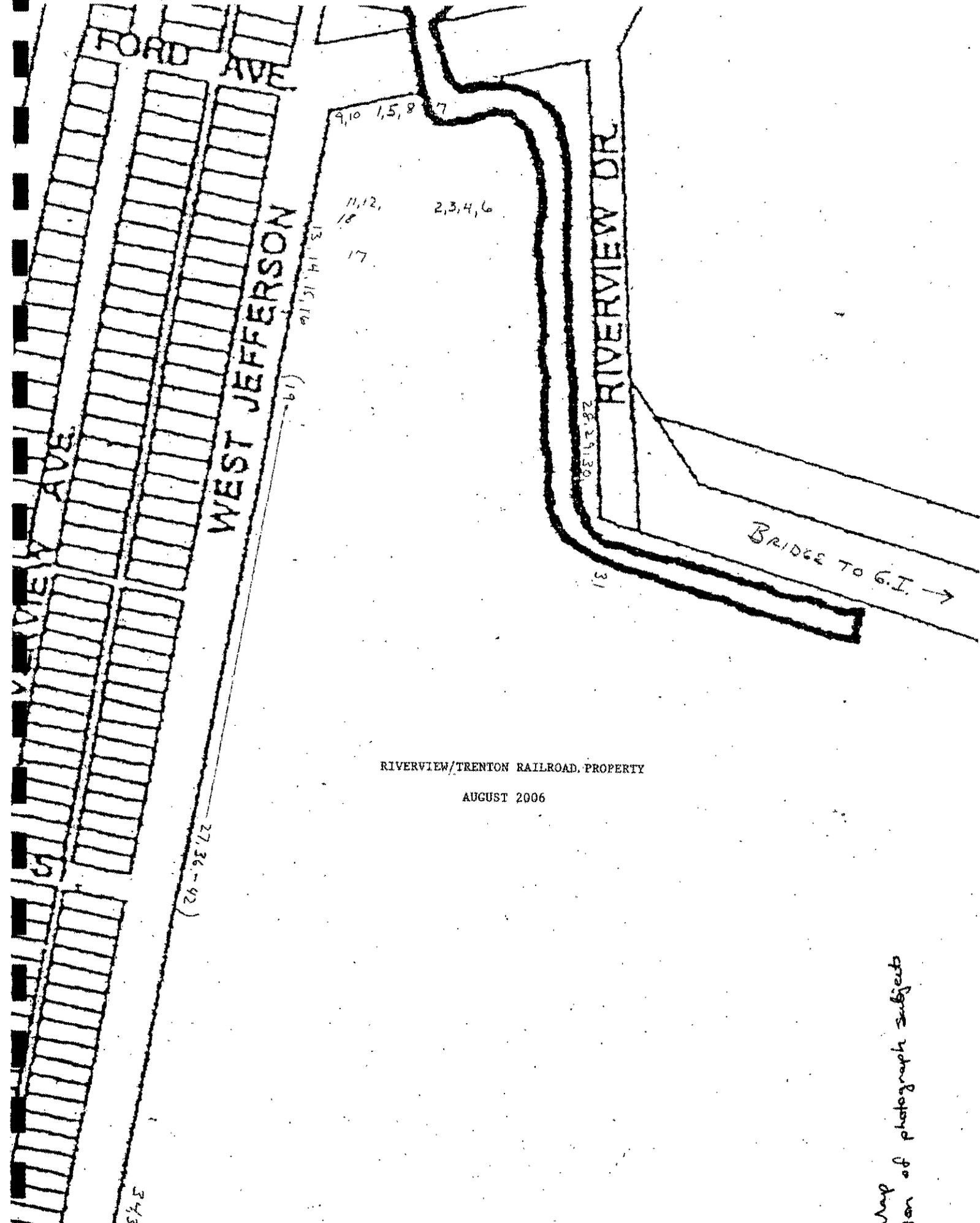
CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of September, 2006, a copy of the City of Riverview's First Supplemental Reply to Sixth Status Report of Riverview Trenton Railroad Company was served upon David H. Coburn, Attorney for Riverview Trenton Railroad Company, Steptoe & Johnson, LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036 by first class mail, postage prepaid.


Karen L. Zurbo

Z:\4-R-ZClients\RVW\LIT\DSCProperty\FirstSupplementalReplytoSixthStatusReport.wpd

1

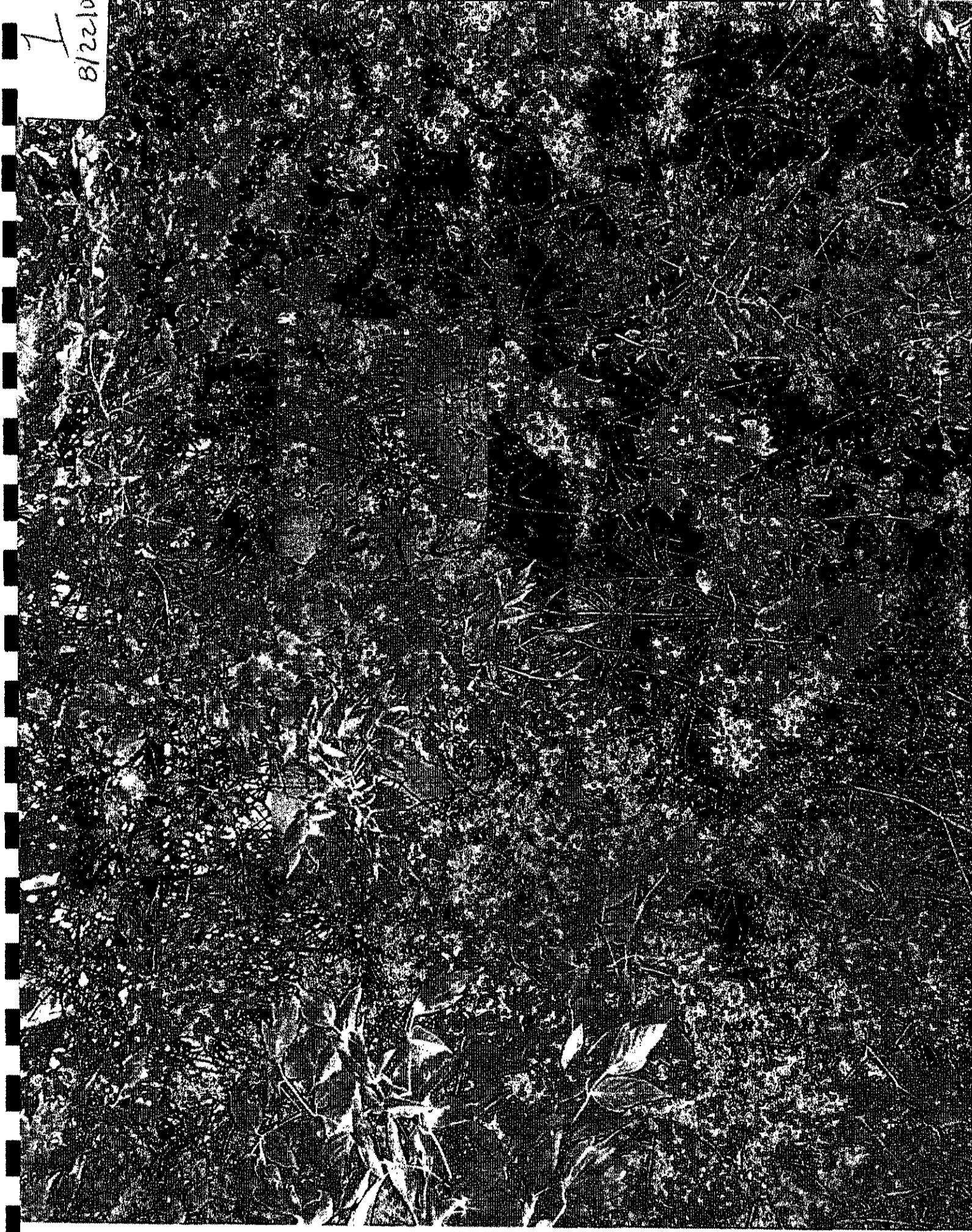


RIVERVIEW/TRENTON RAILROAD PROPERTY

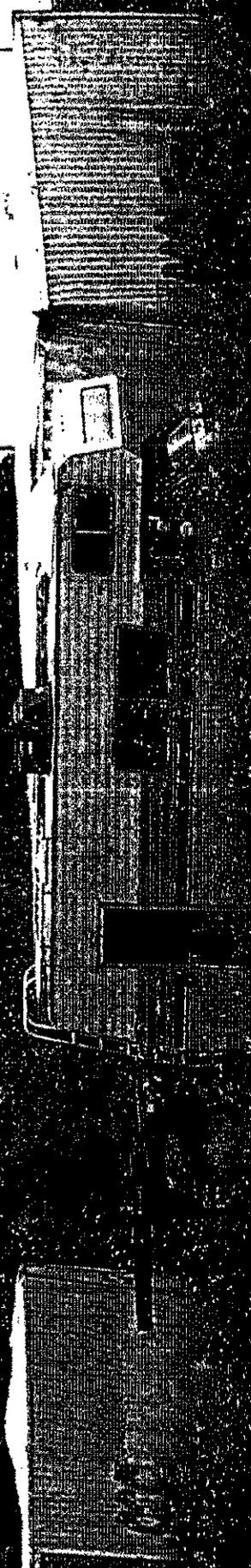
AUGUST 2006

Map of photograph subjects

7
8/22/10

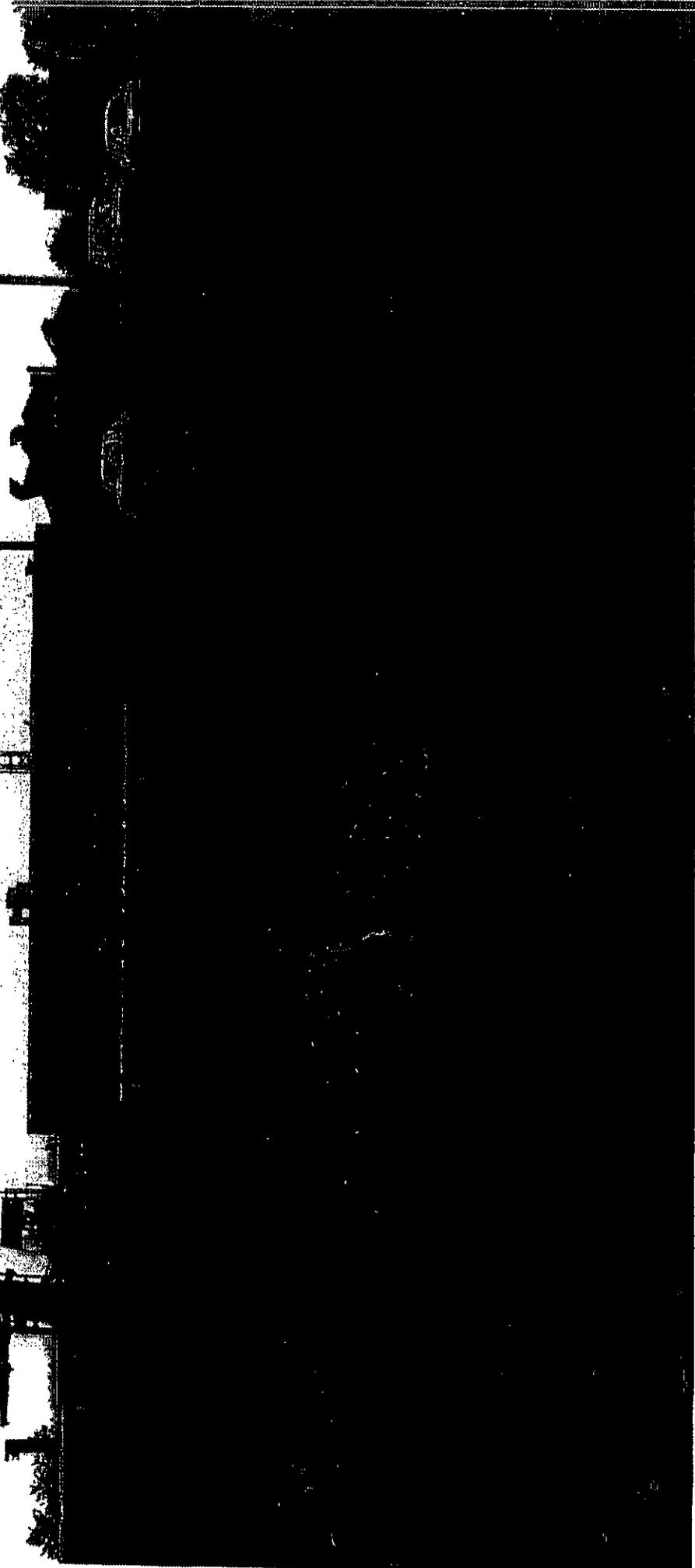
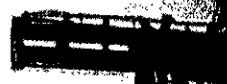


2
8/22/06



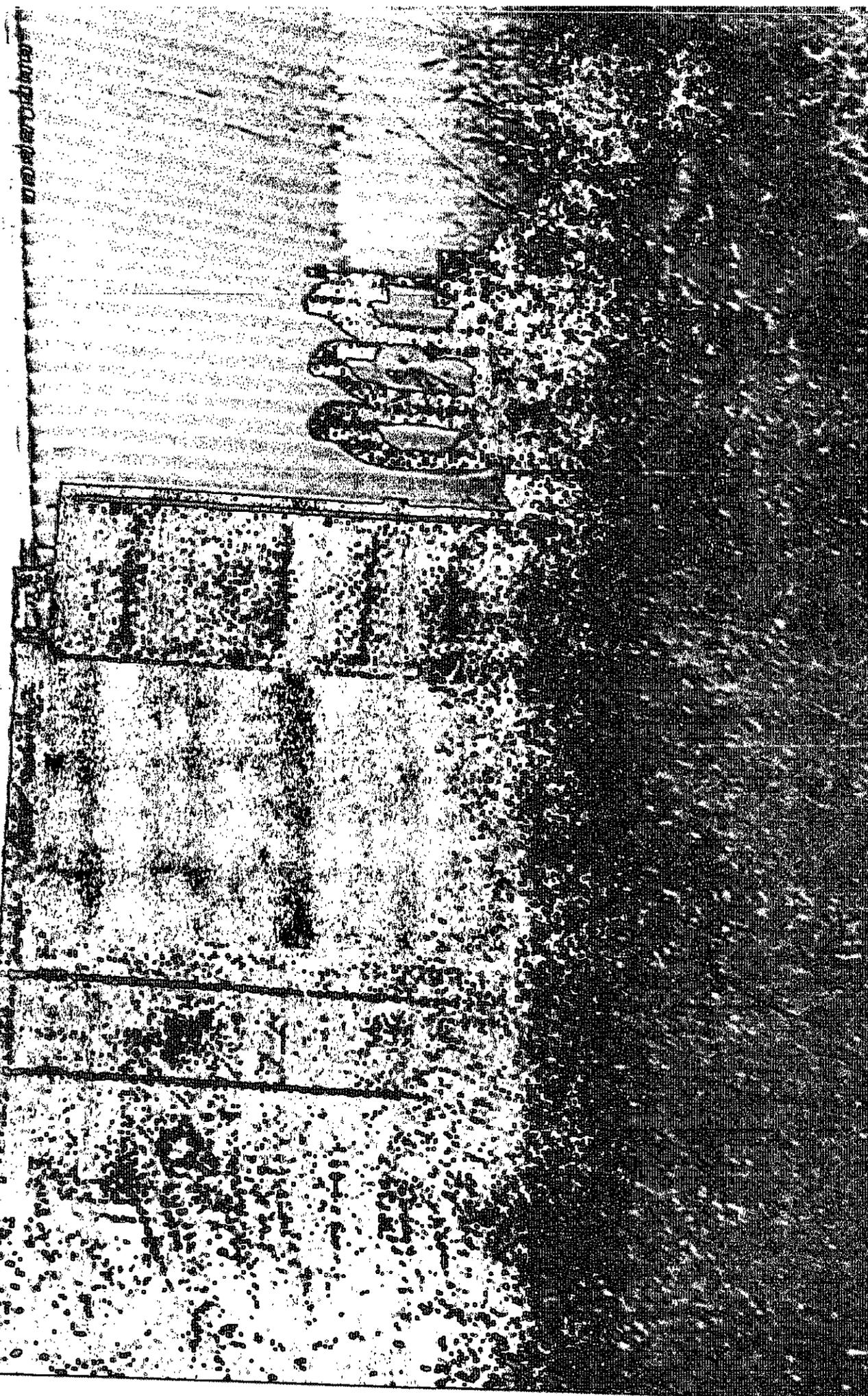
3

8/22/8



4

8/22/10

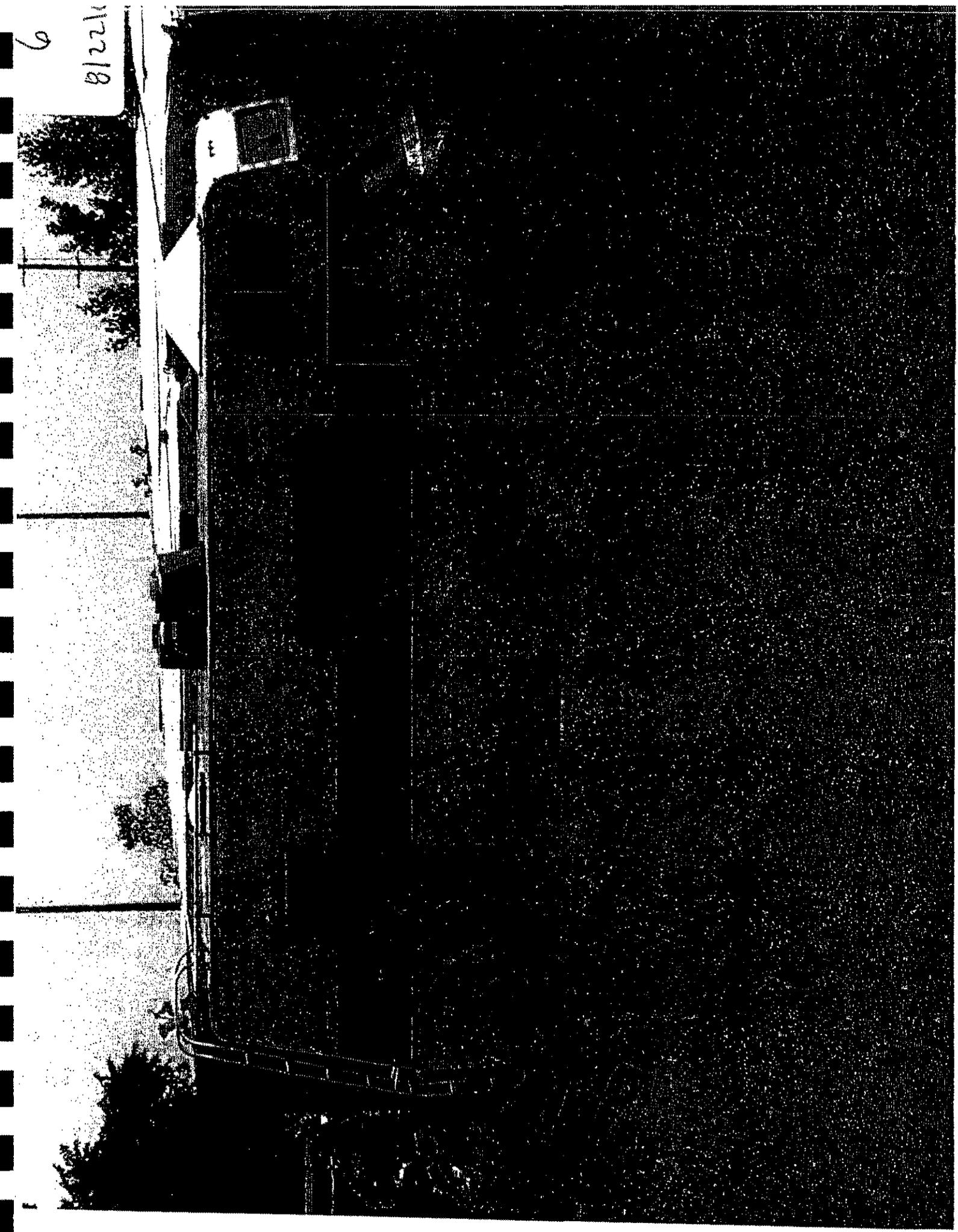


8/22/0

5



9
8/22/18



7

8/22/01



8

8/22/11



9

B1221



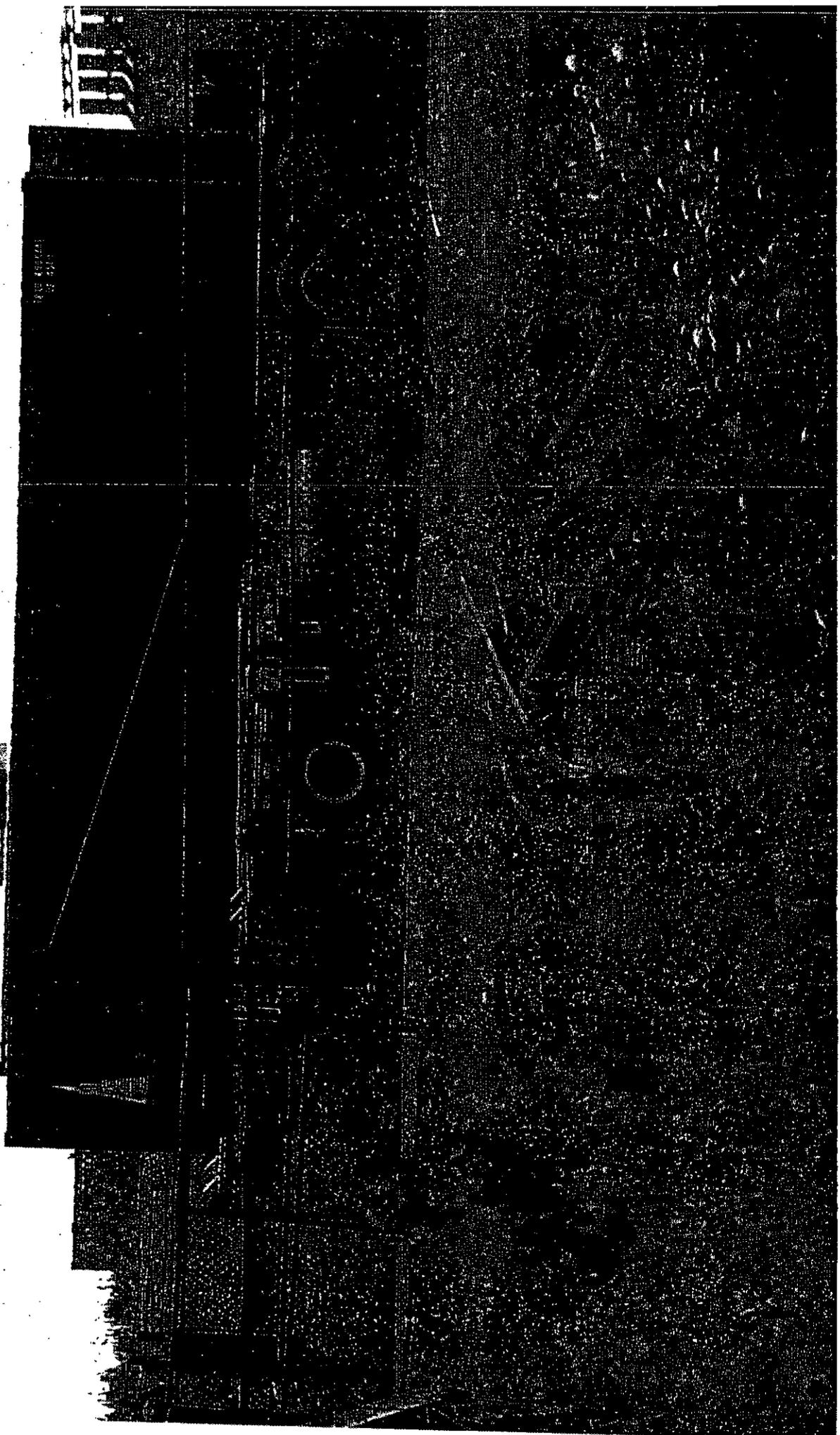
70

8/22/01

1/1



IT
012210



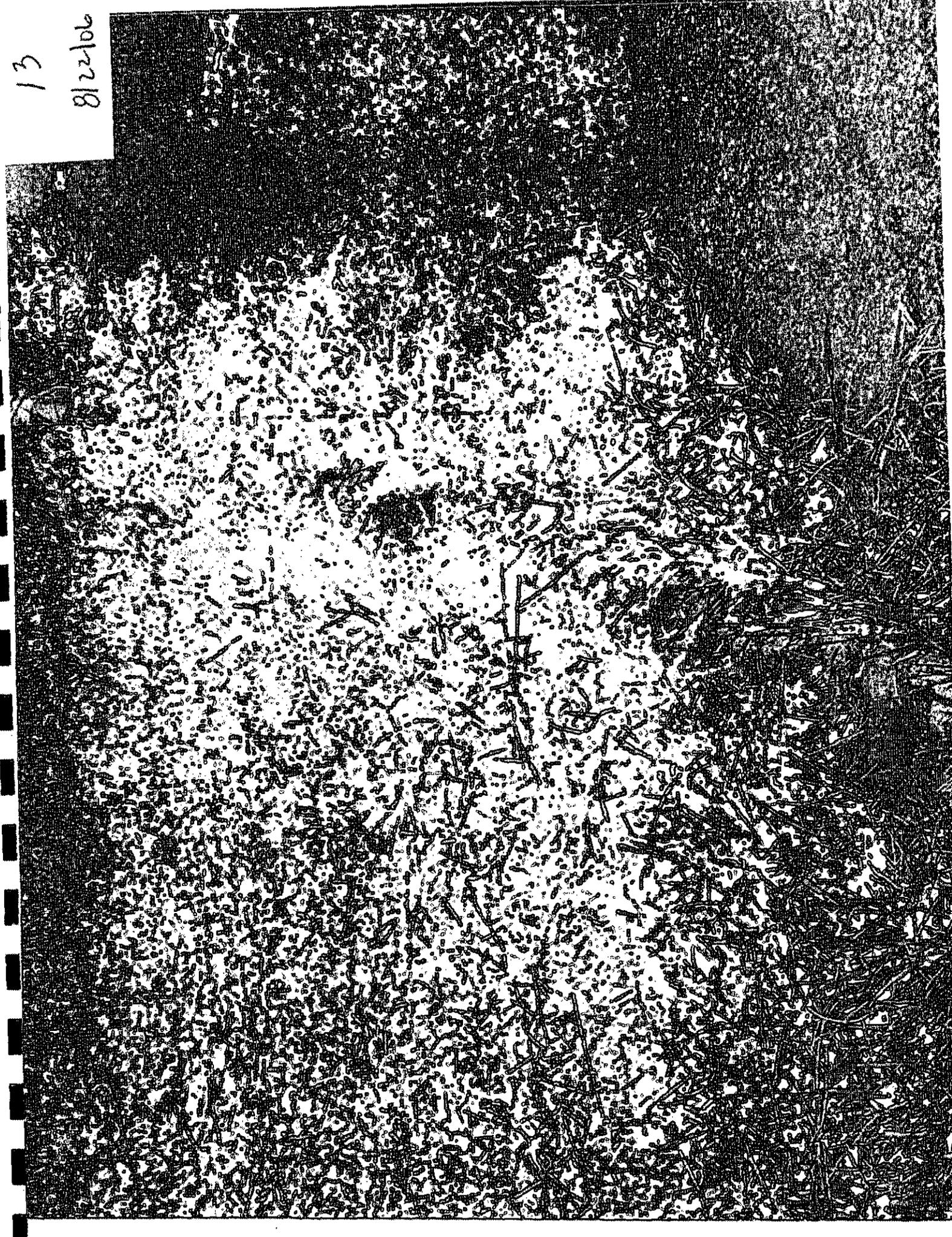
21

812210



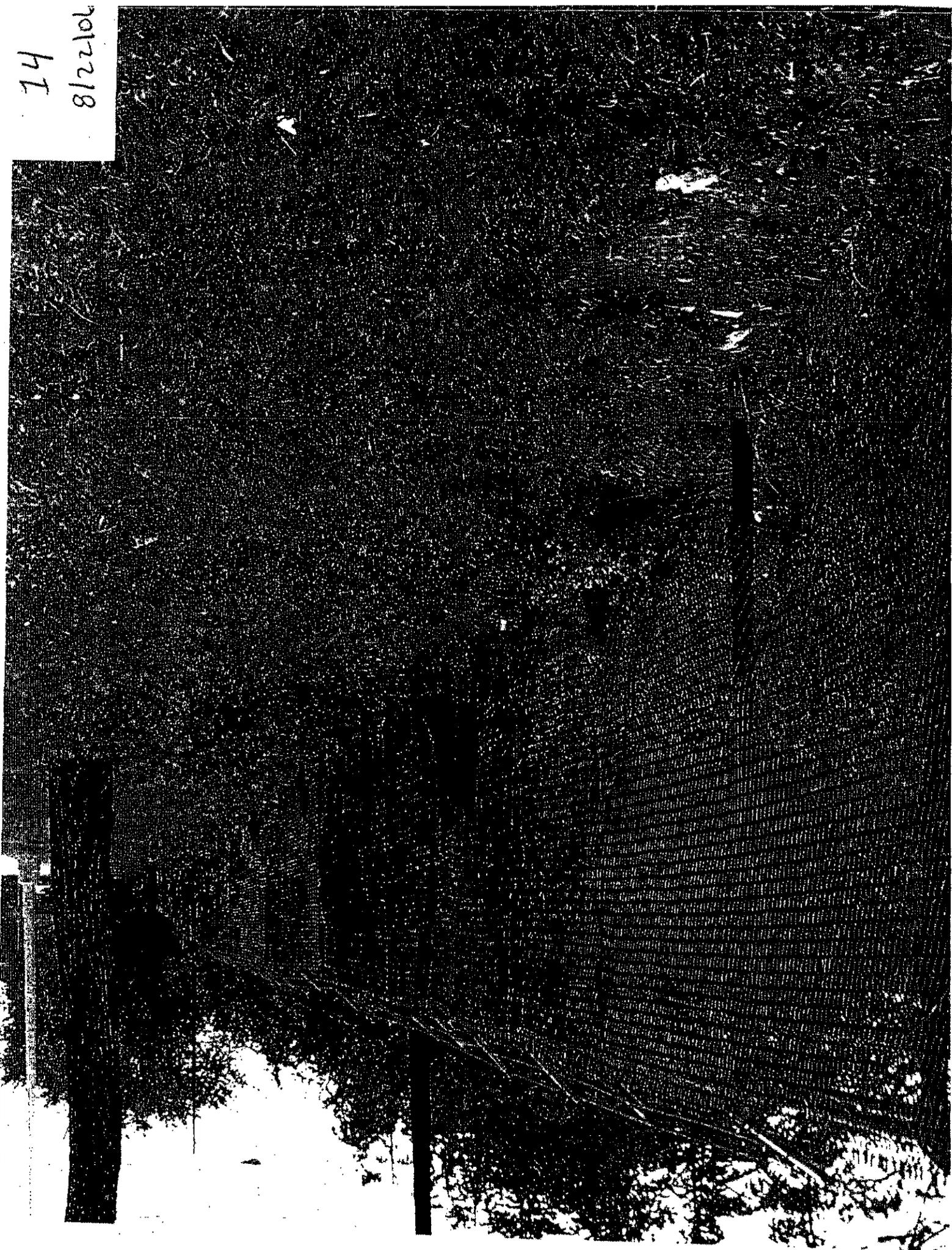
13

8/22-106



14

8/22/06



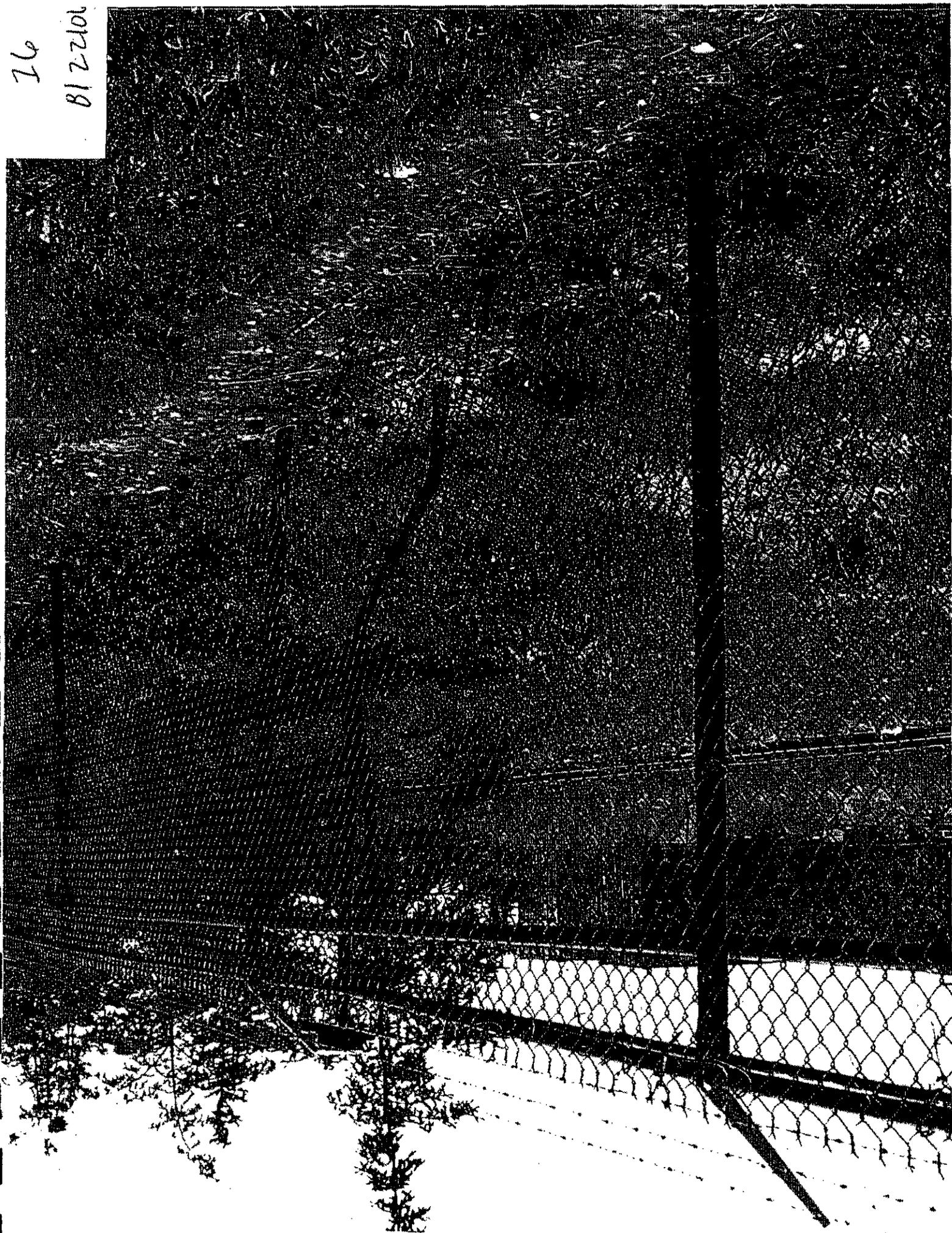
15

8/22/06



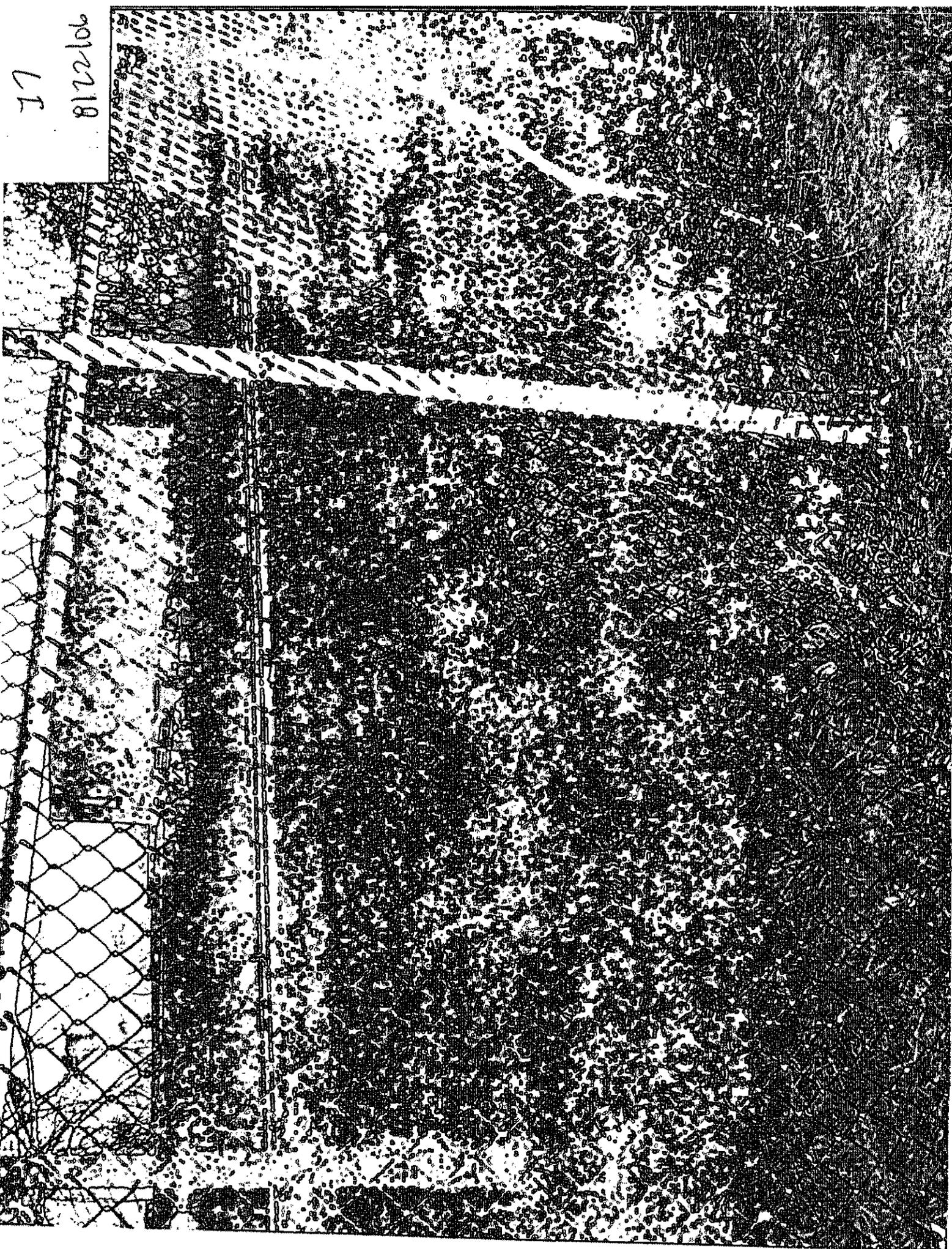
76

8122101

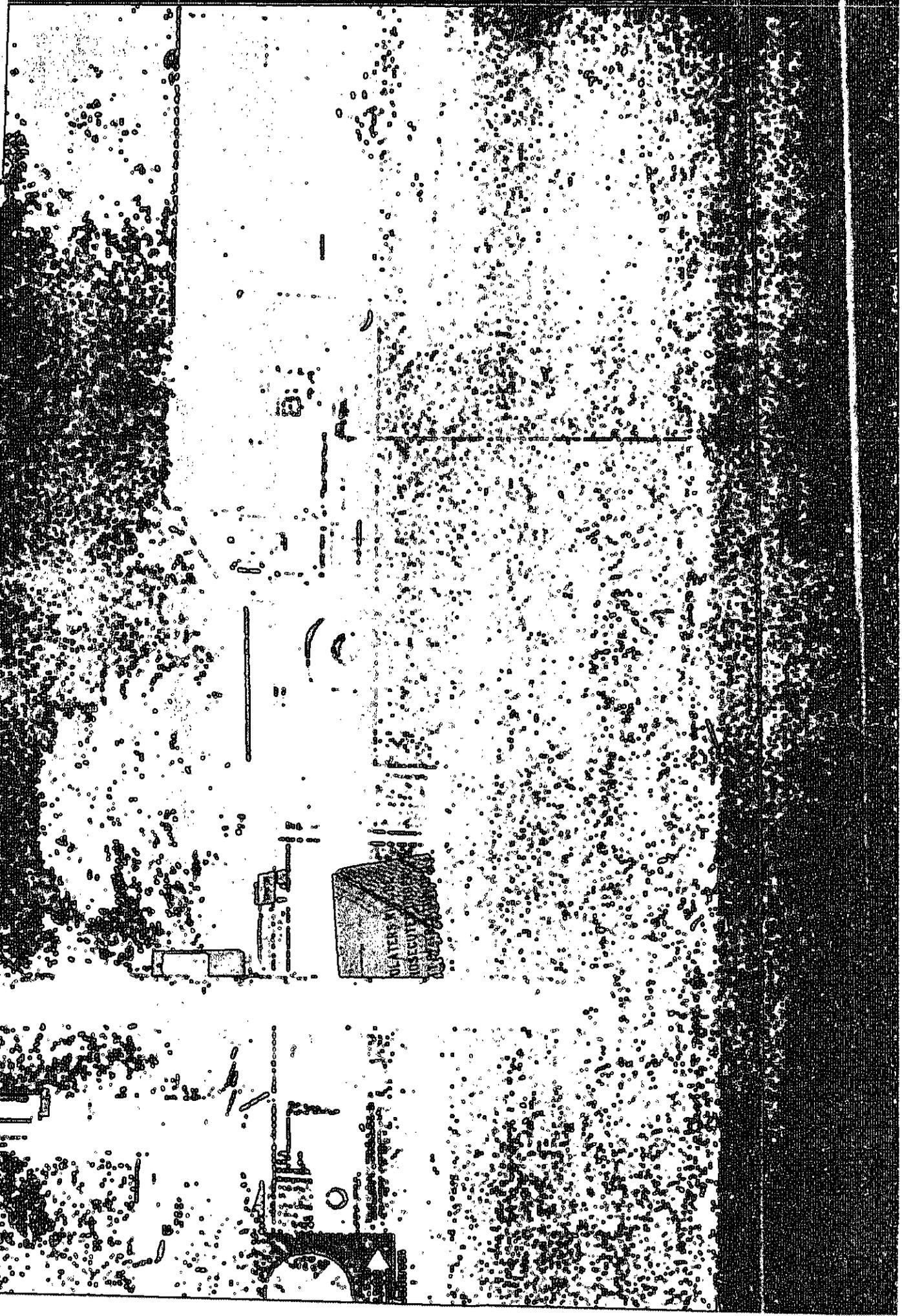


17

812218

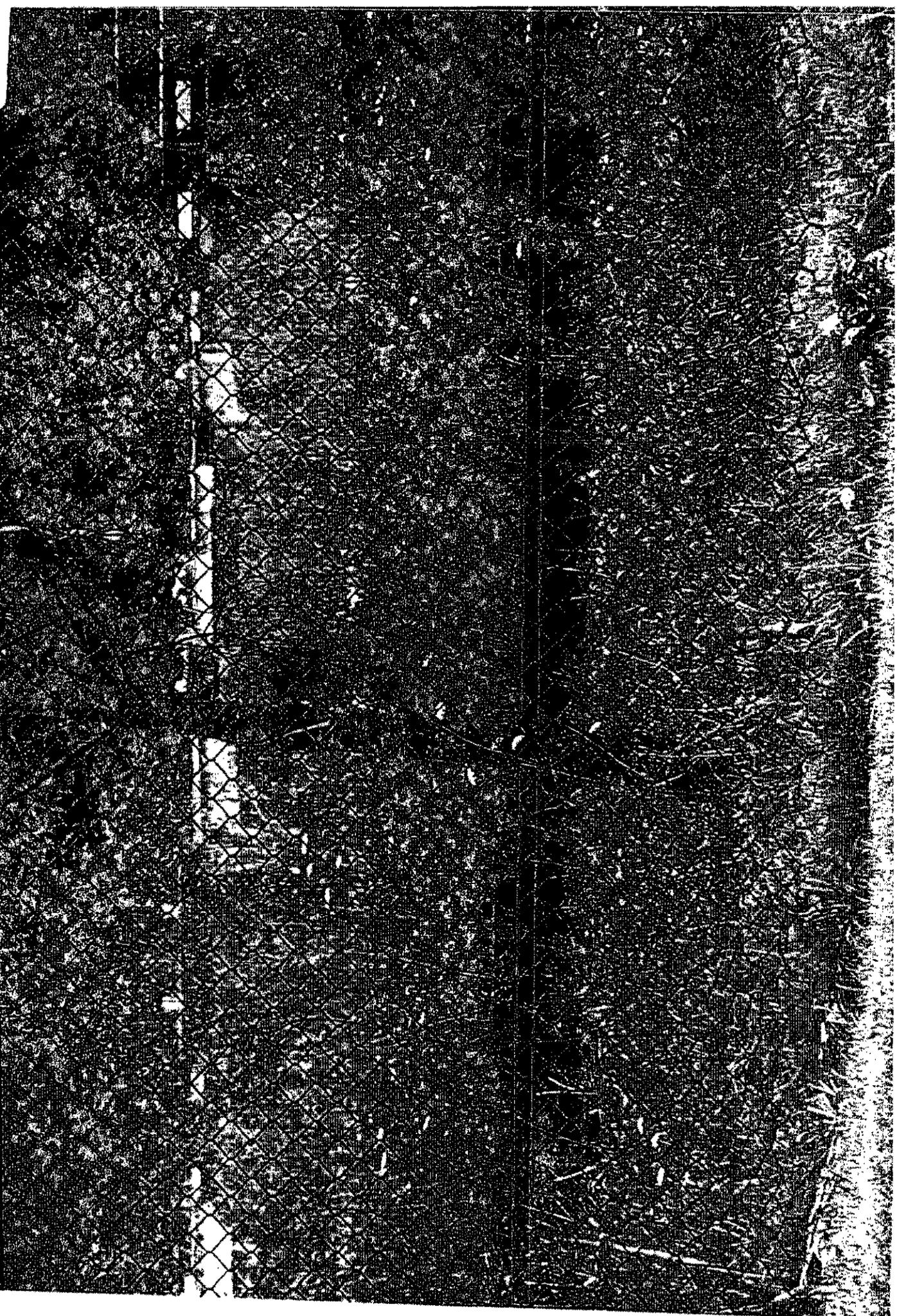


18
8/22/06



67

8/22/8



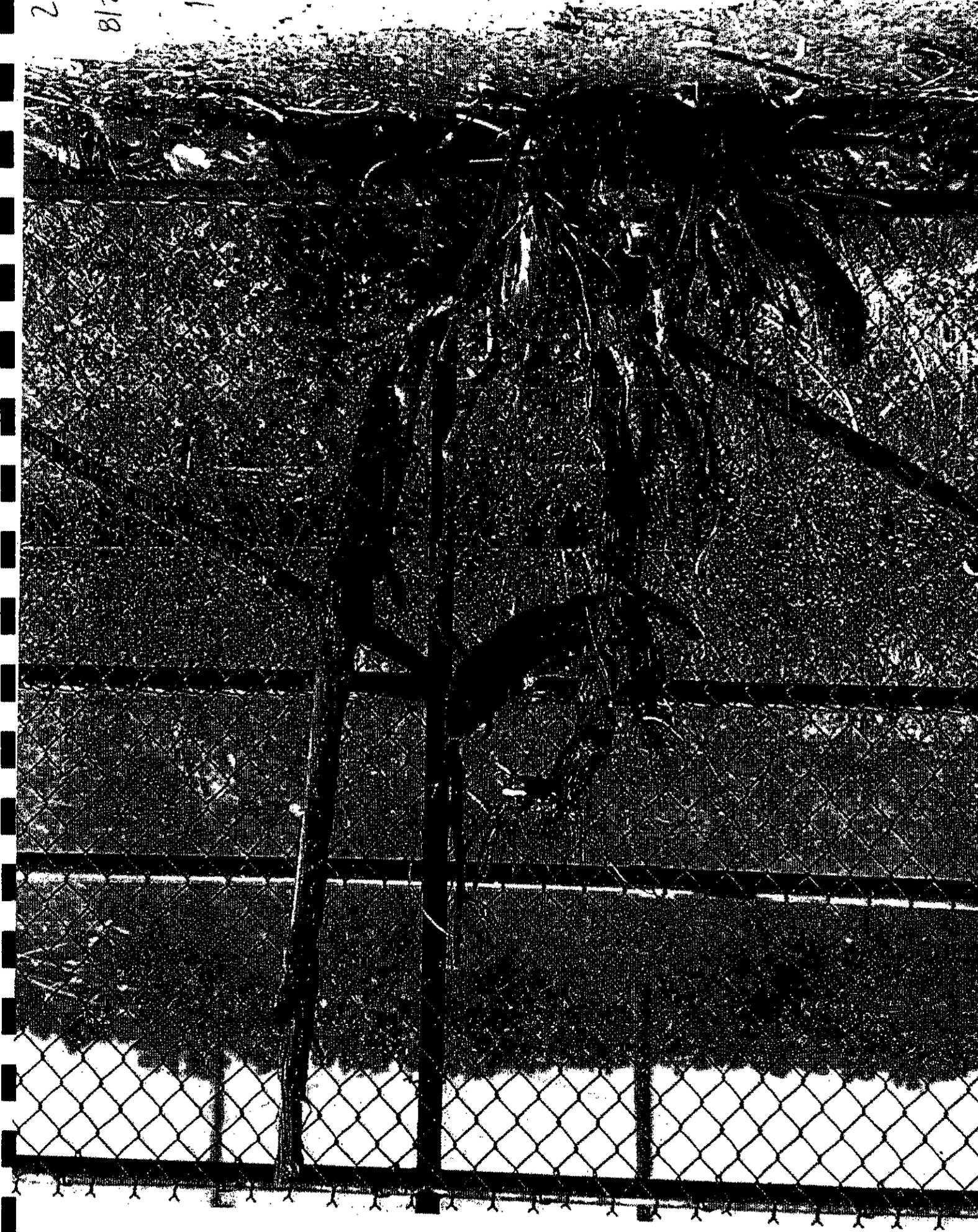
02
01/22/10



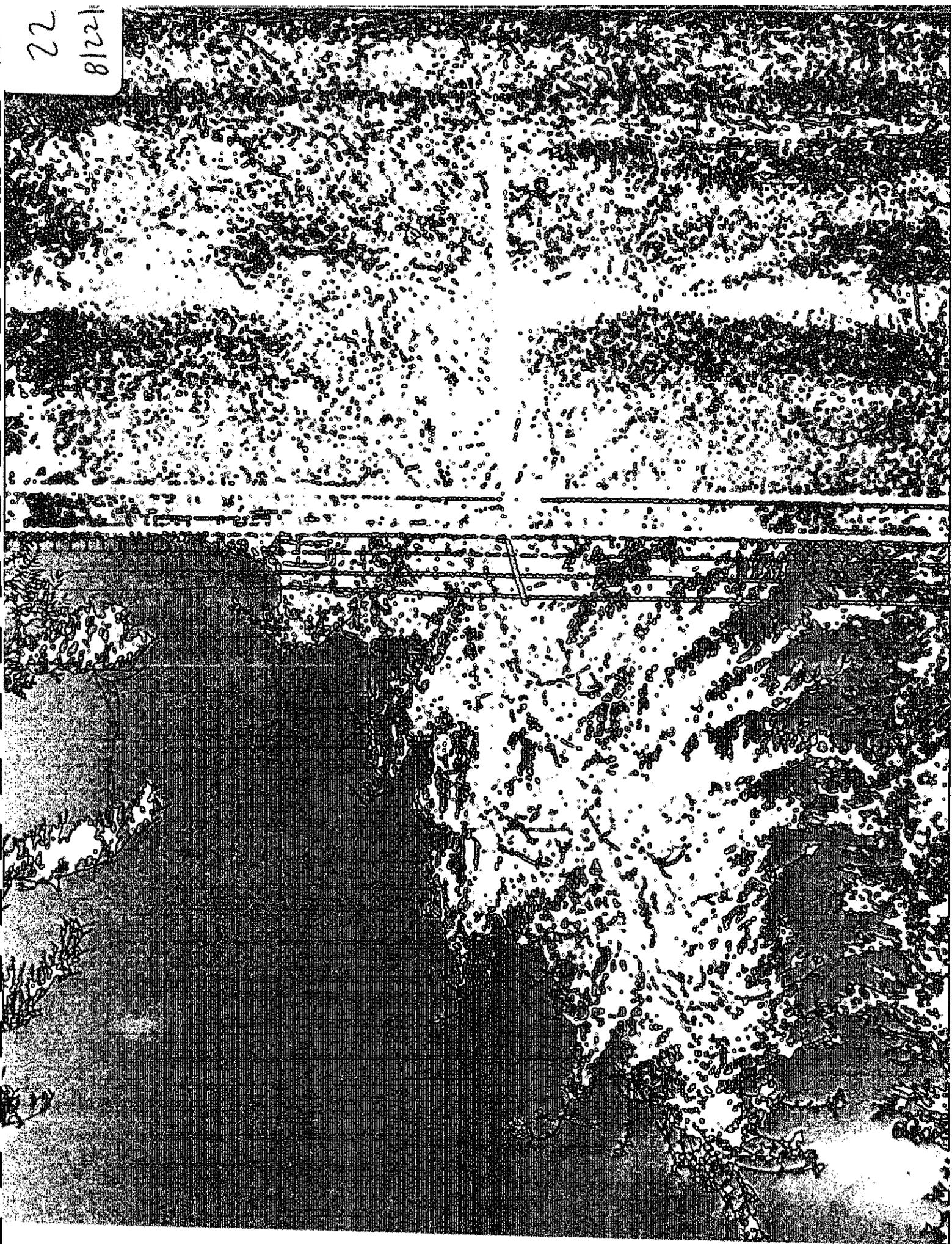
12

8/22

1

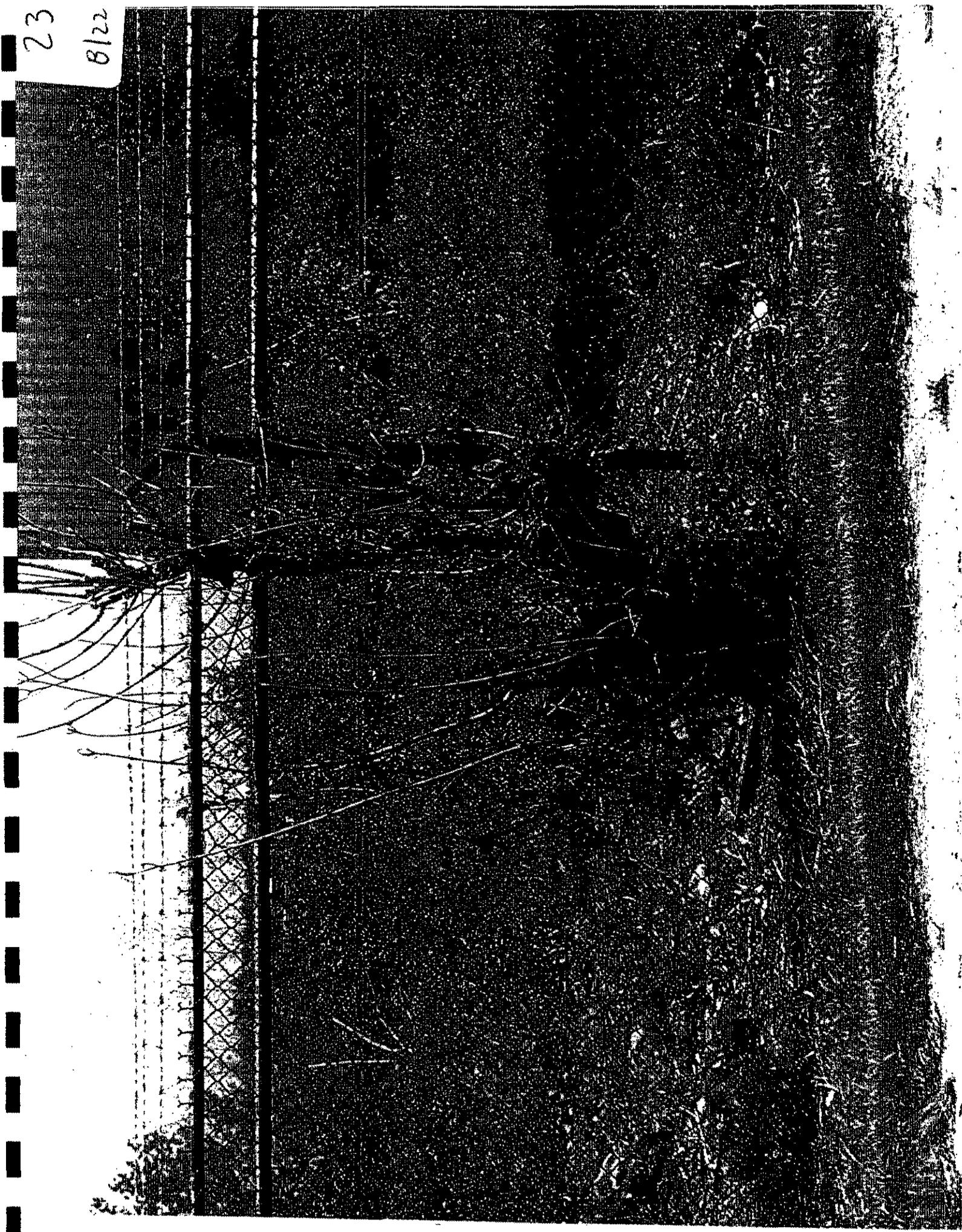


22
8/22/18



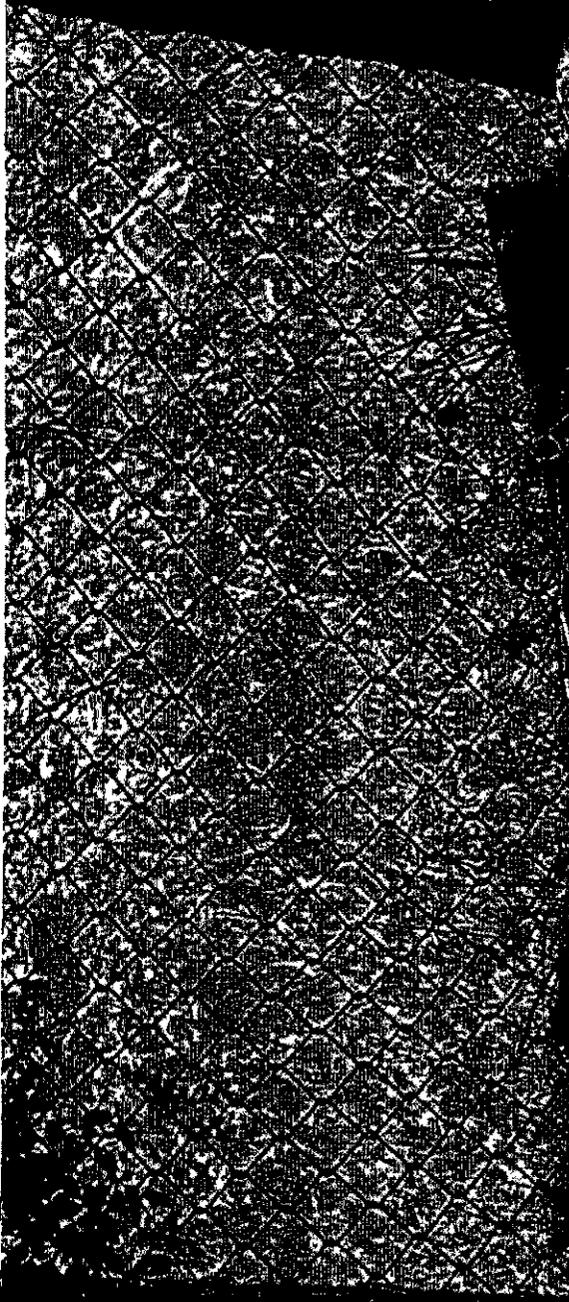
23

8/22



42

8/2/8

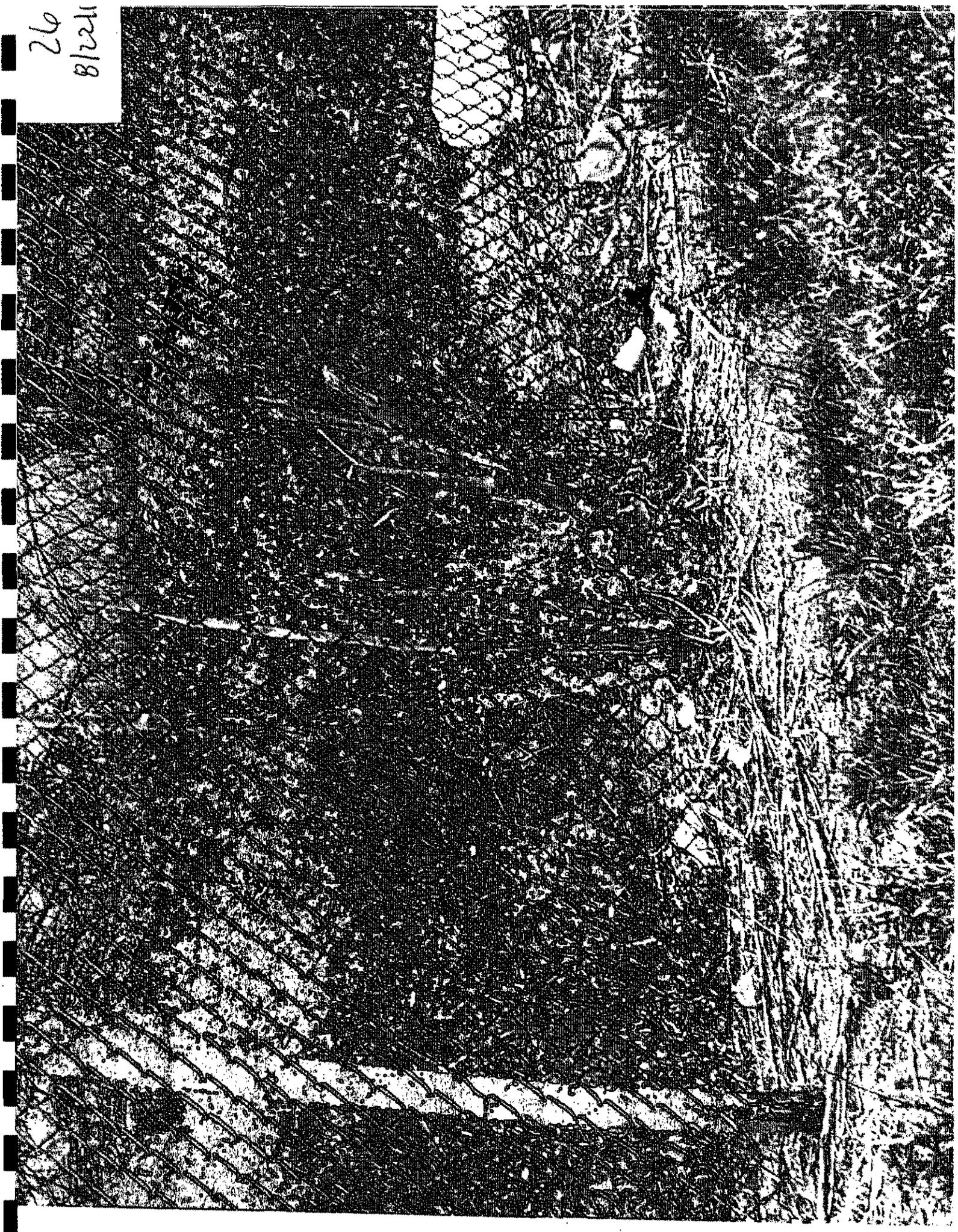


52

8/22/8



26
8/22/11



152
8/14/10



28

8/14/06



29

8/14/06



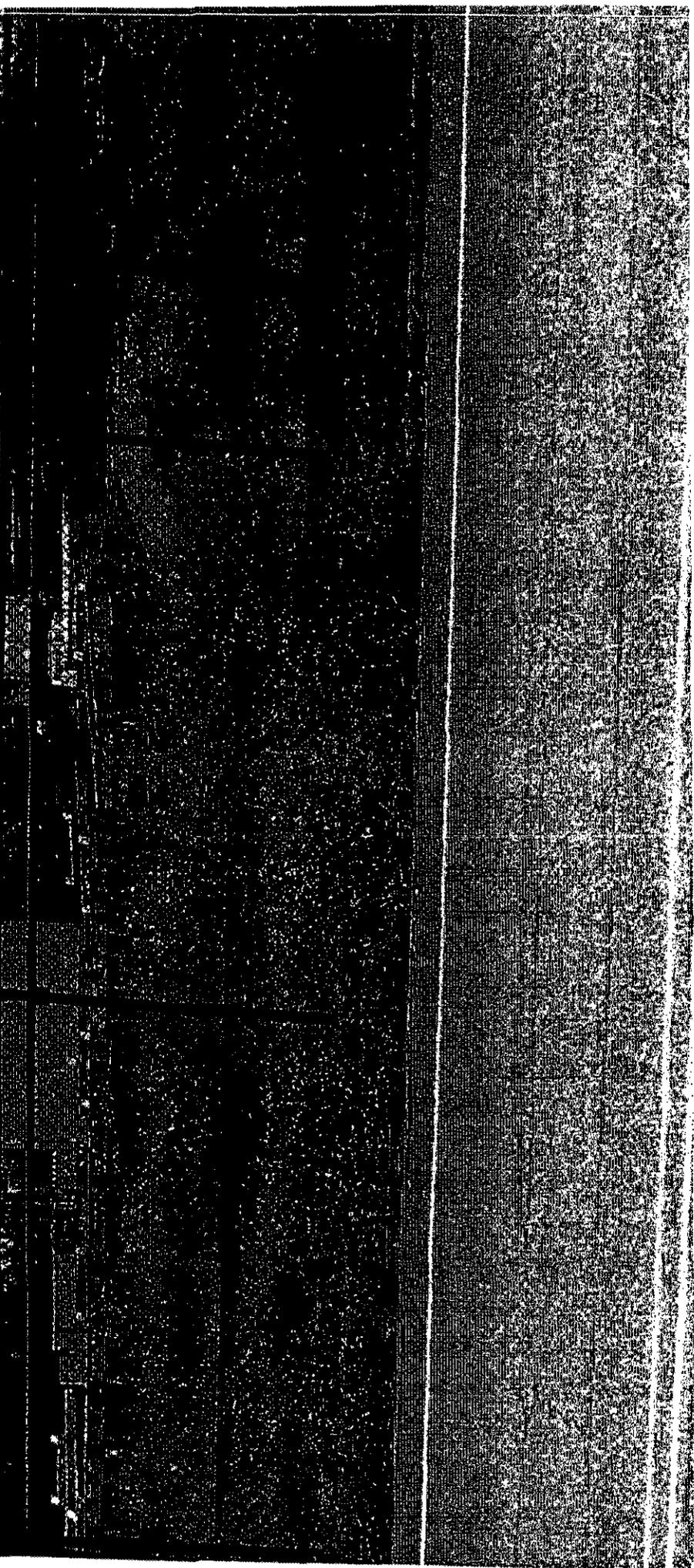
30

8/14/08



31

Blind



32

8/14/01



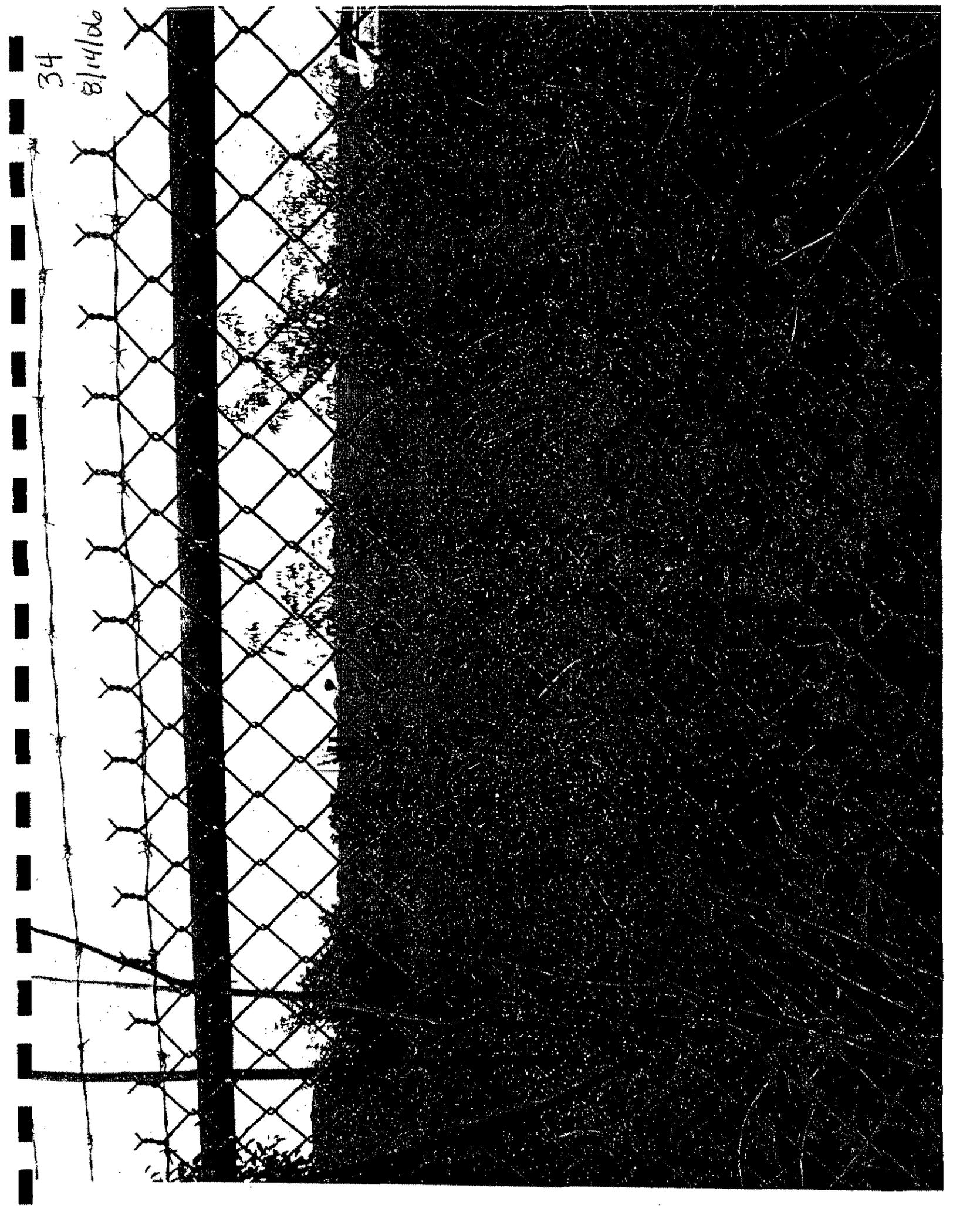
33

8/14/01



34

8/14/06

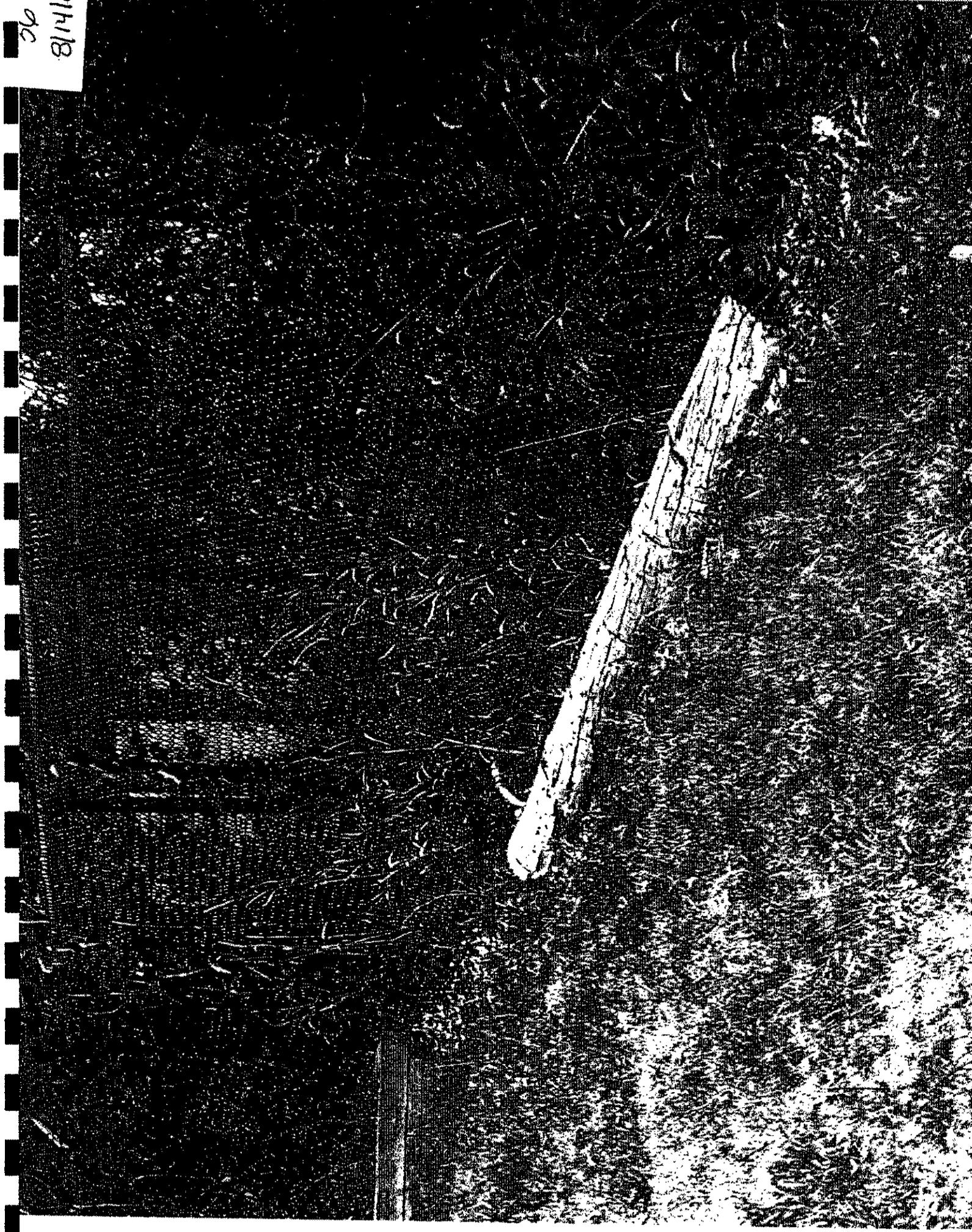


35

8/14/60



26
8141C



37

8/14/04



8/14/18
25



10/4/18
LC

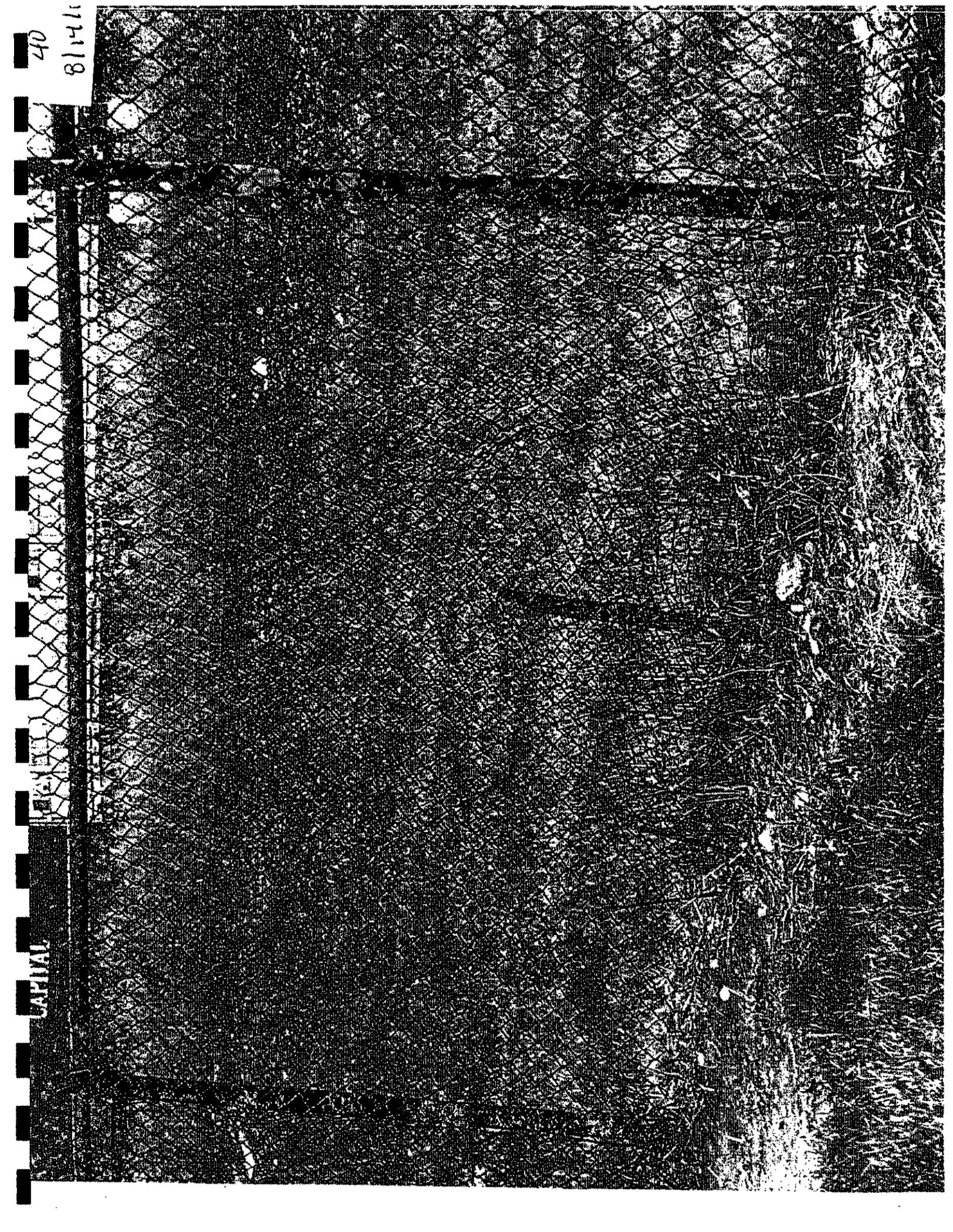


10/4/18
LC

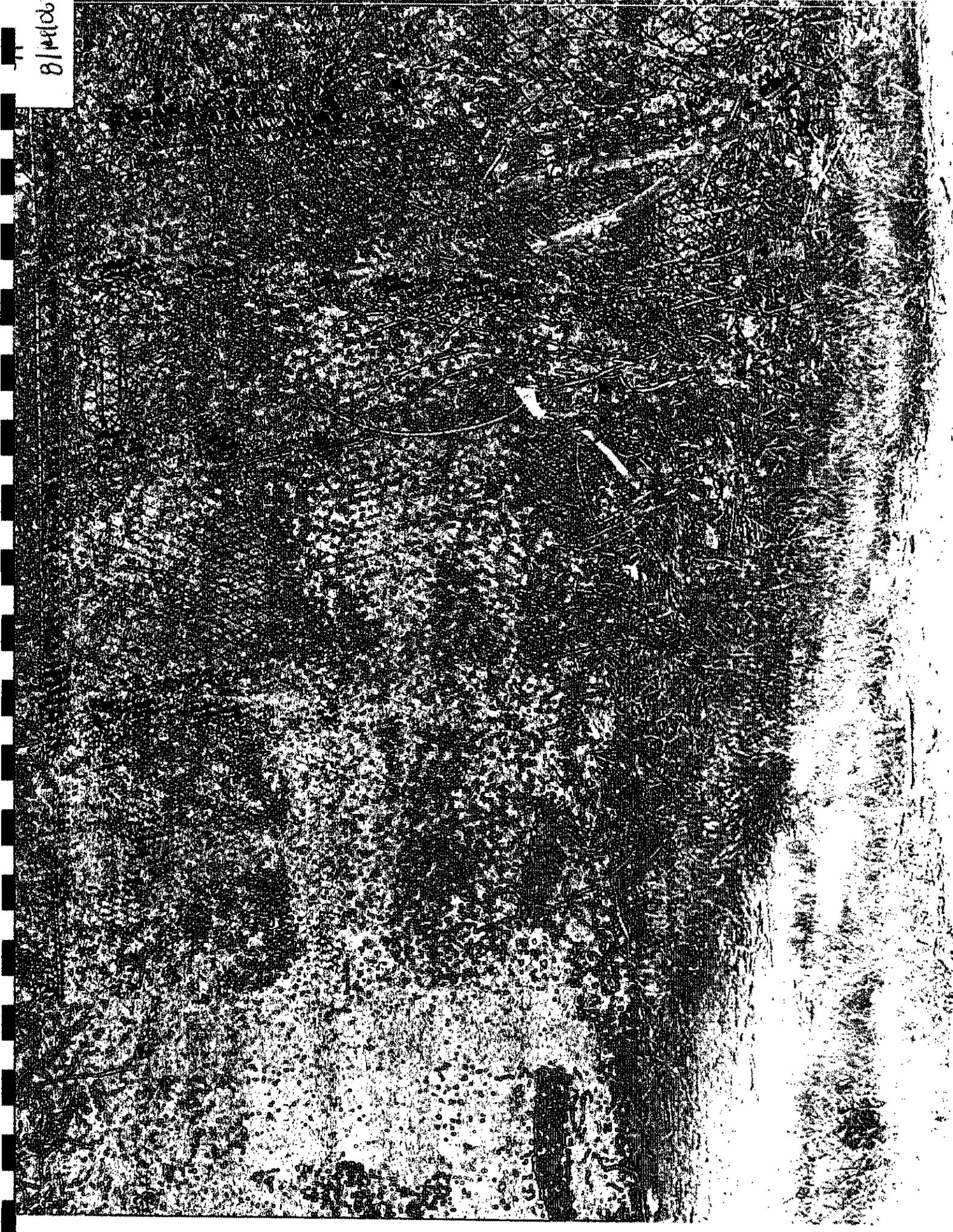
40

8/14/11

CAPITAL



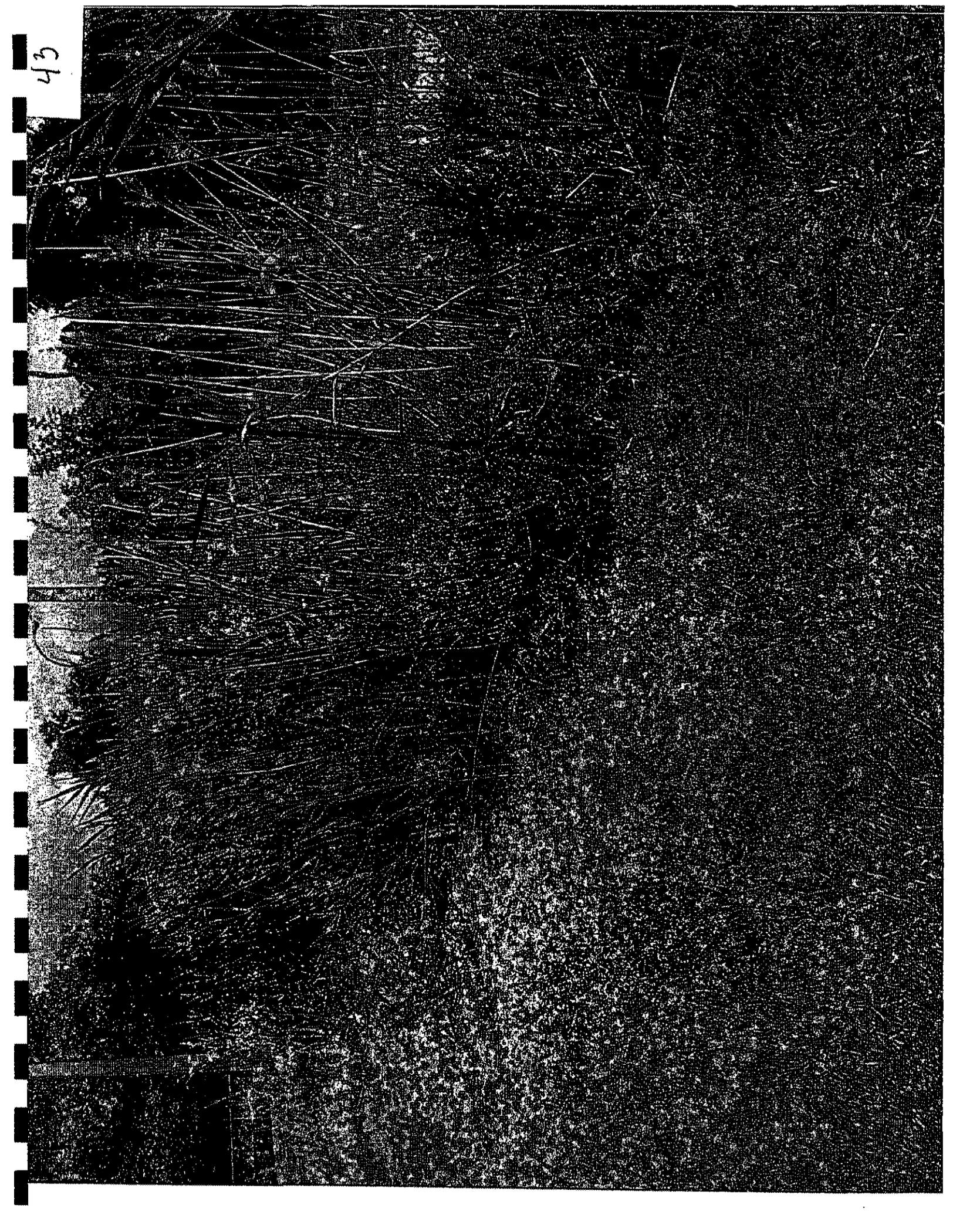
8/14/06



75
B/14106



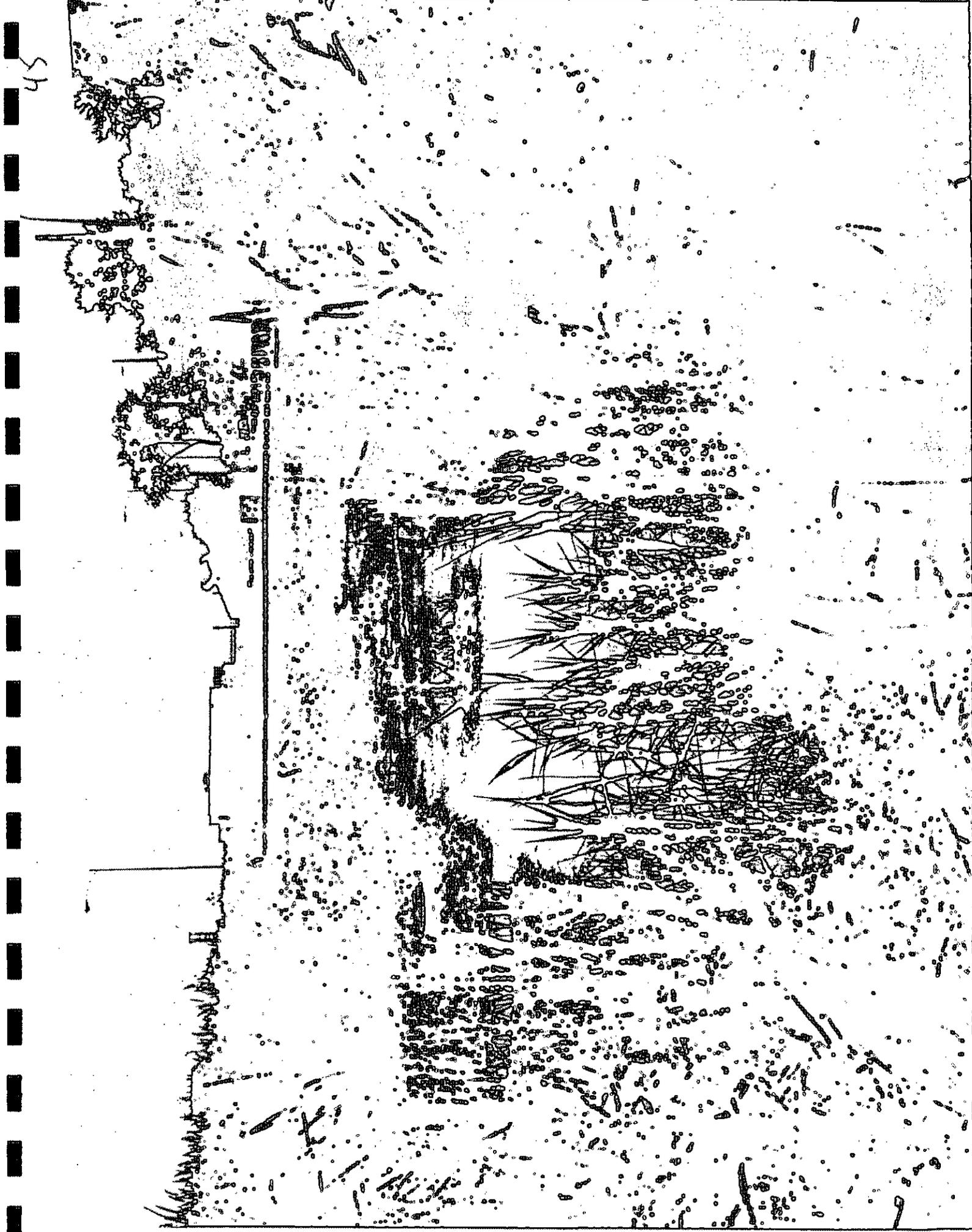
43



44



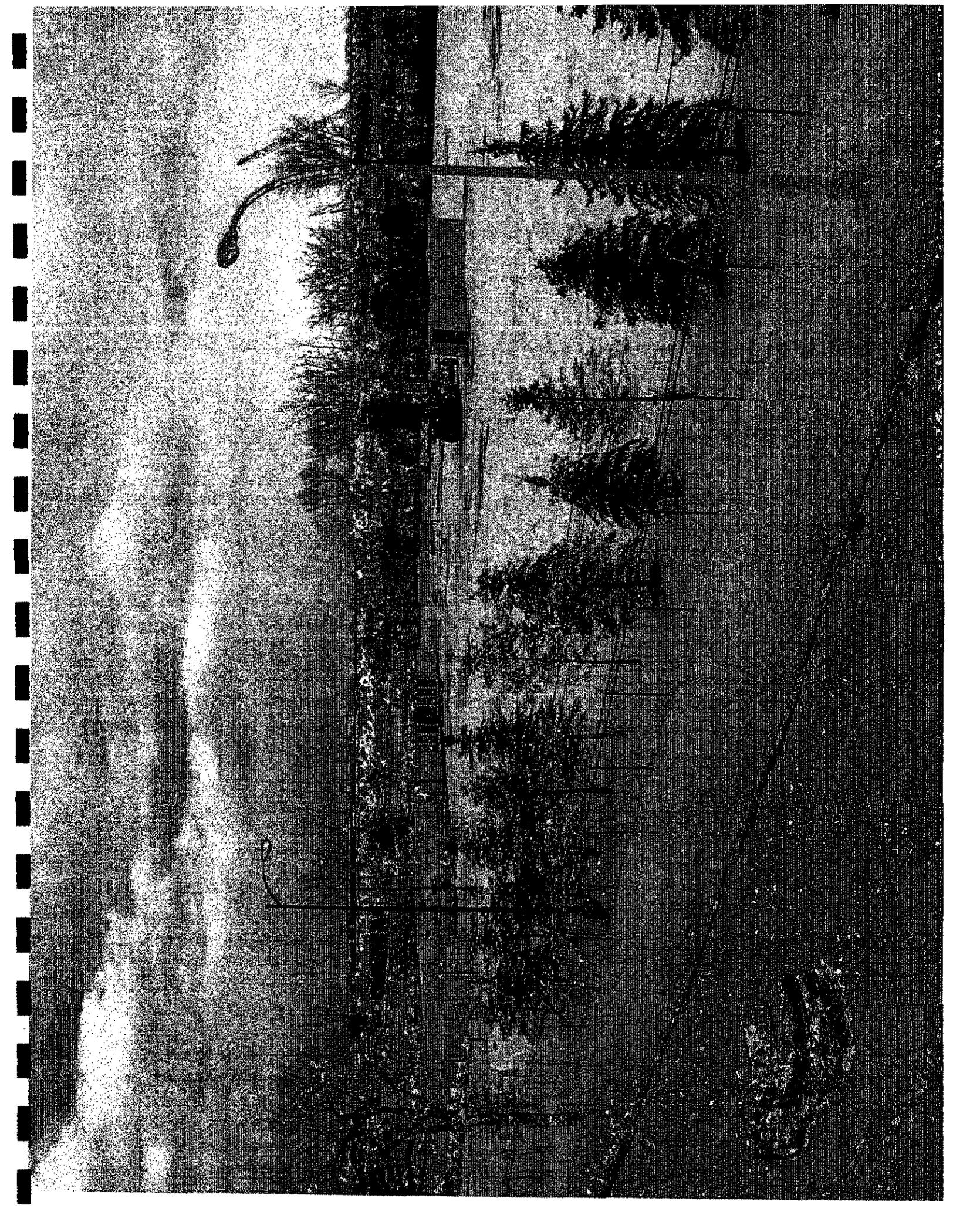
54

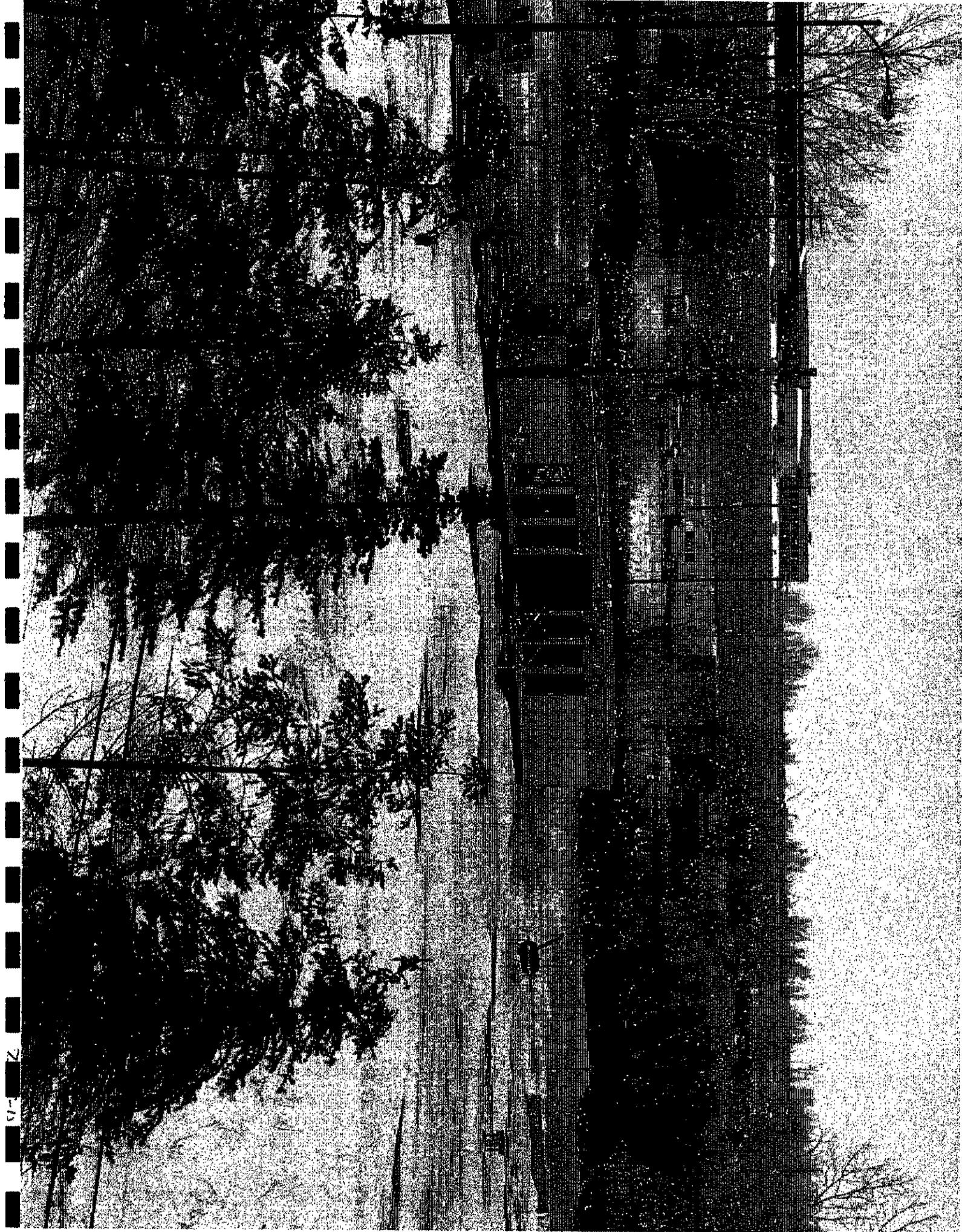


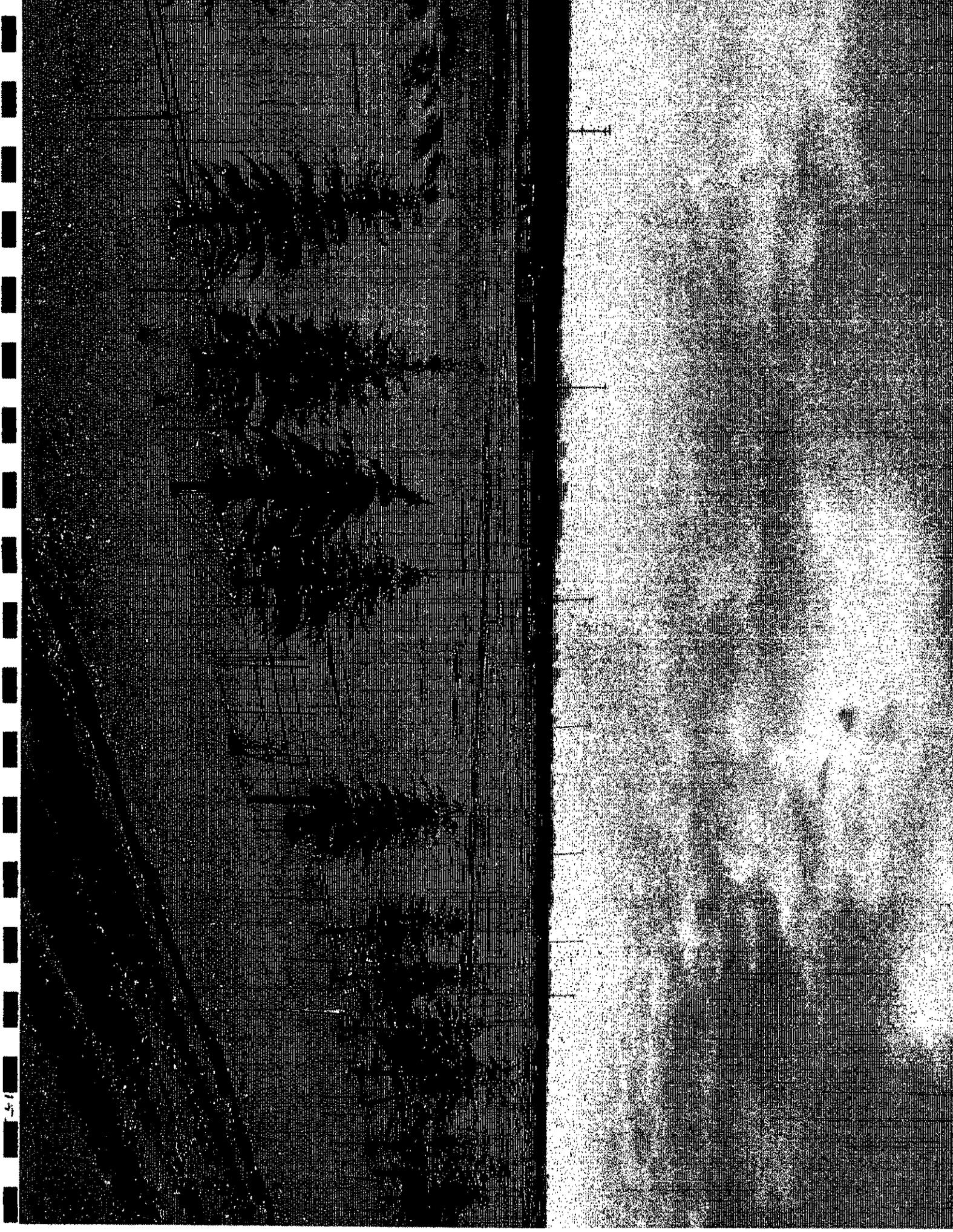
46



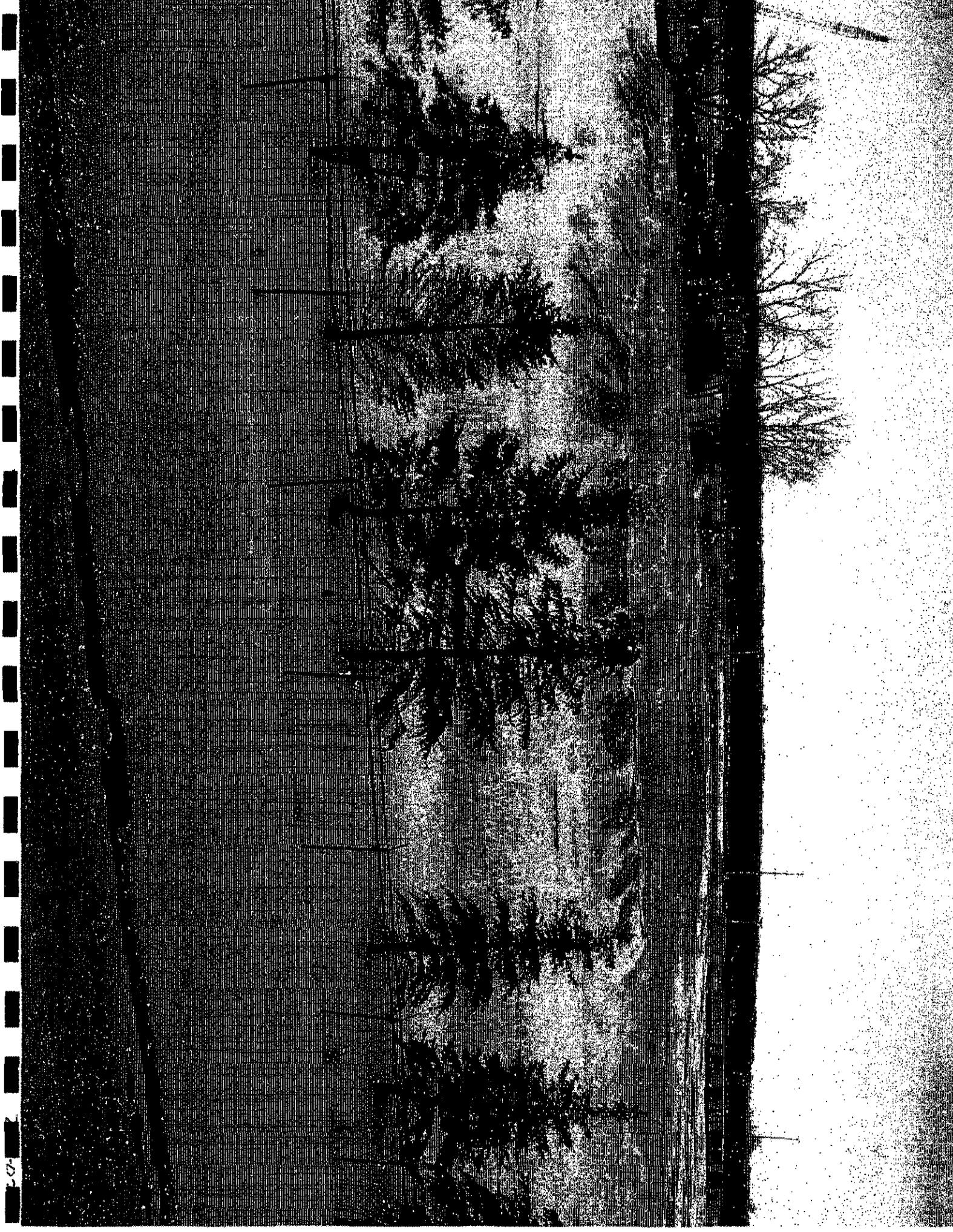
8

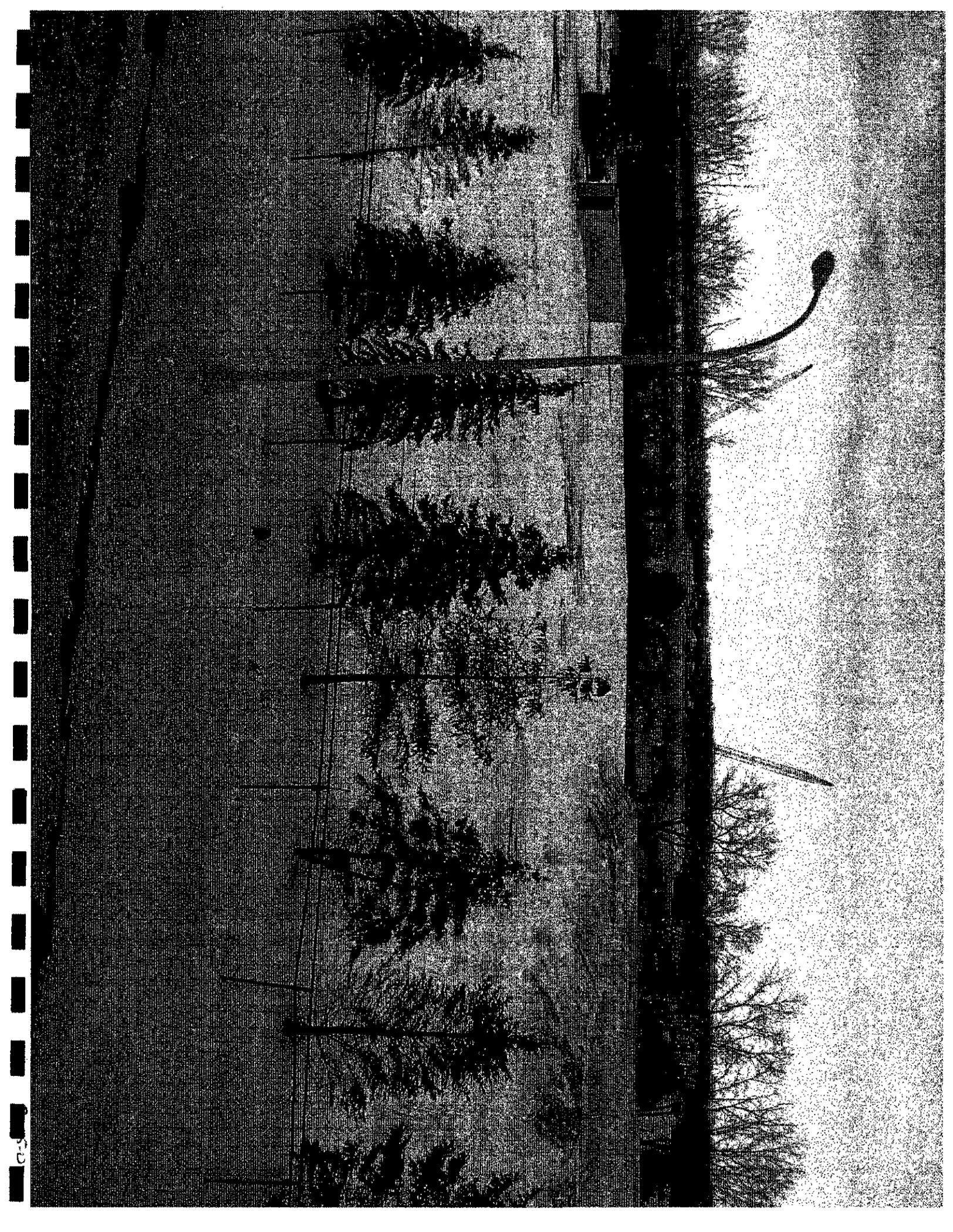




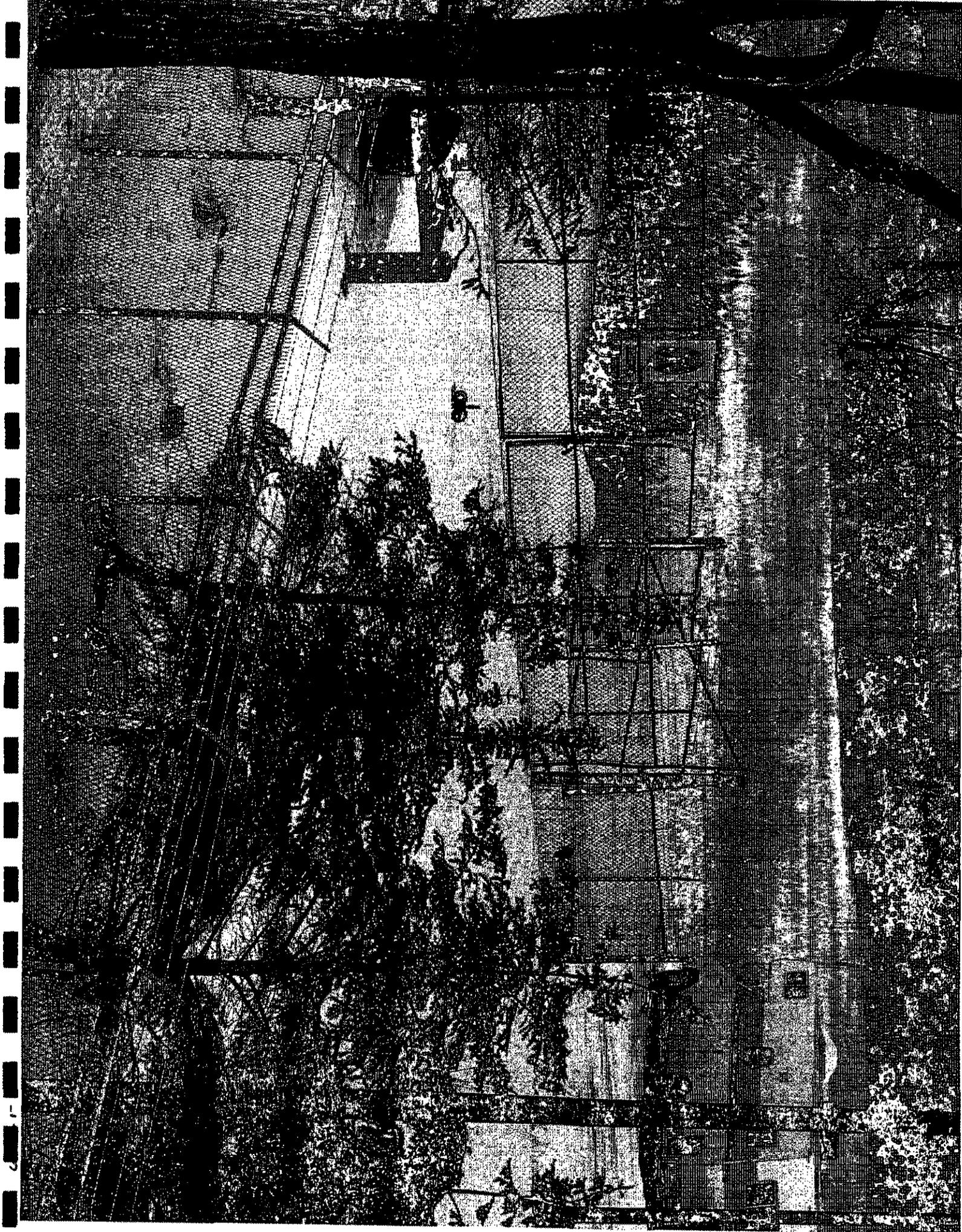




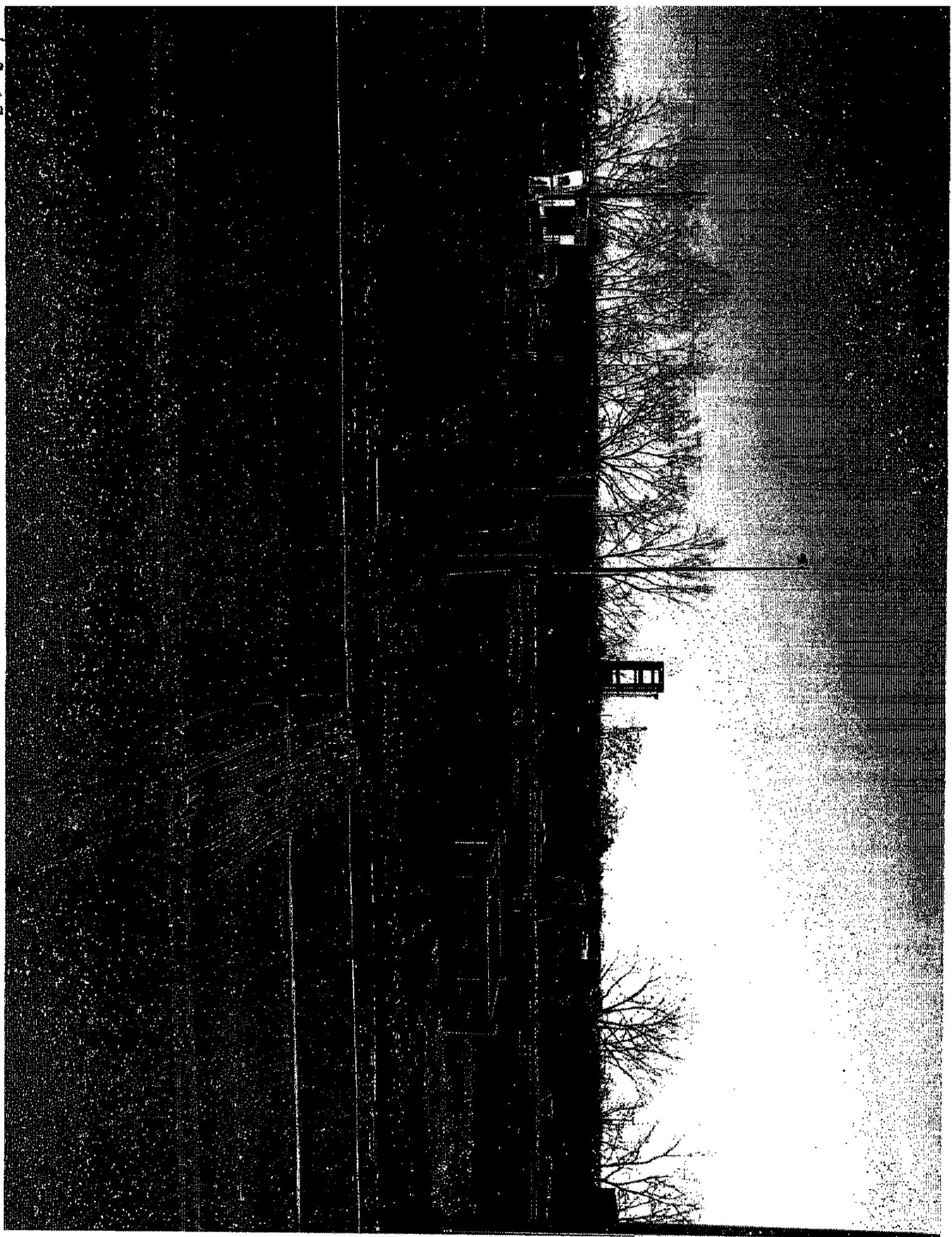




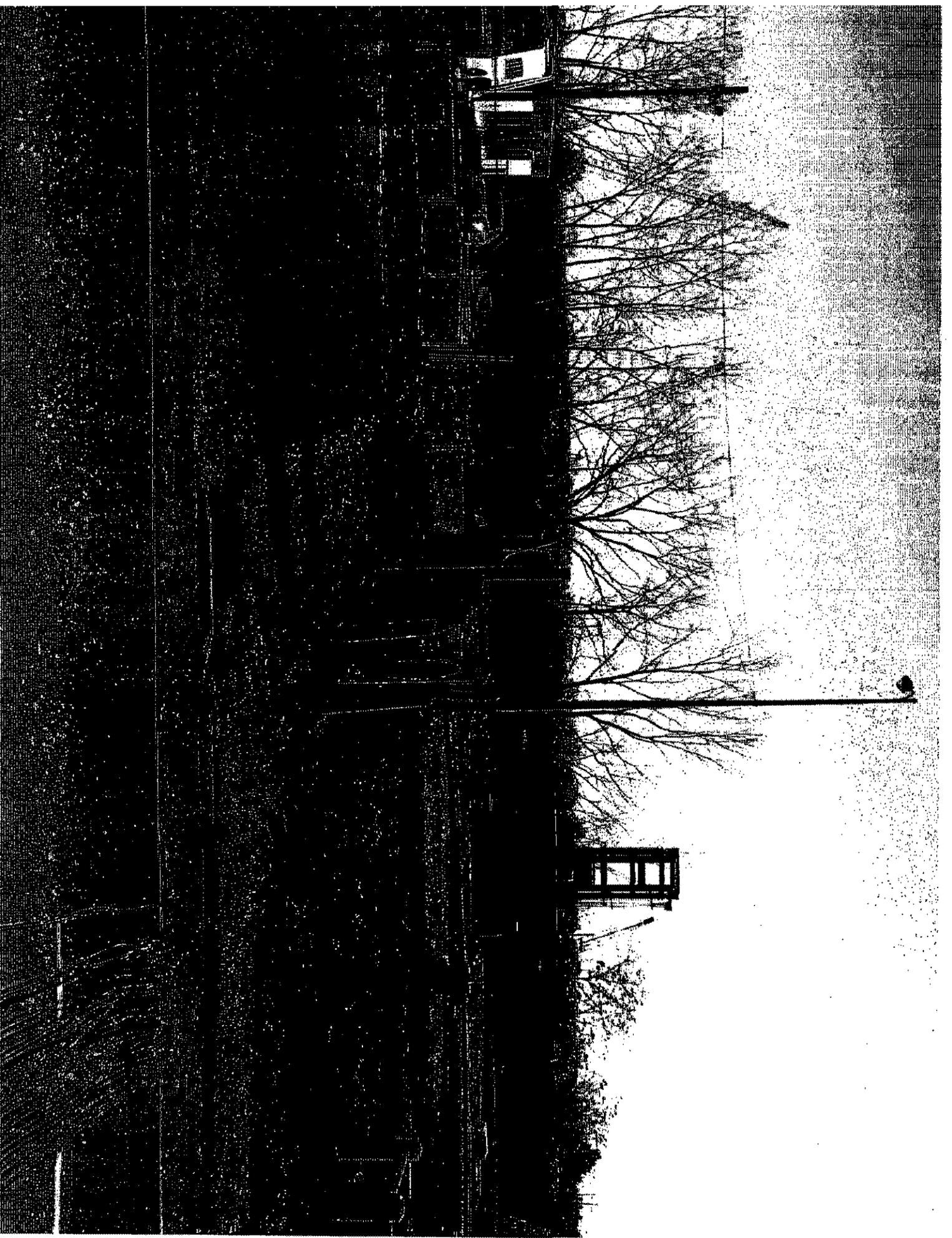




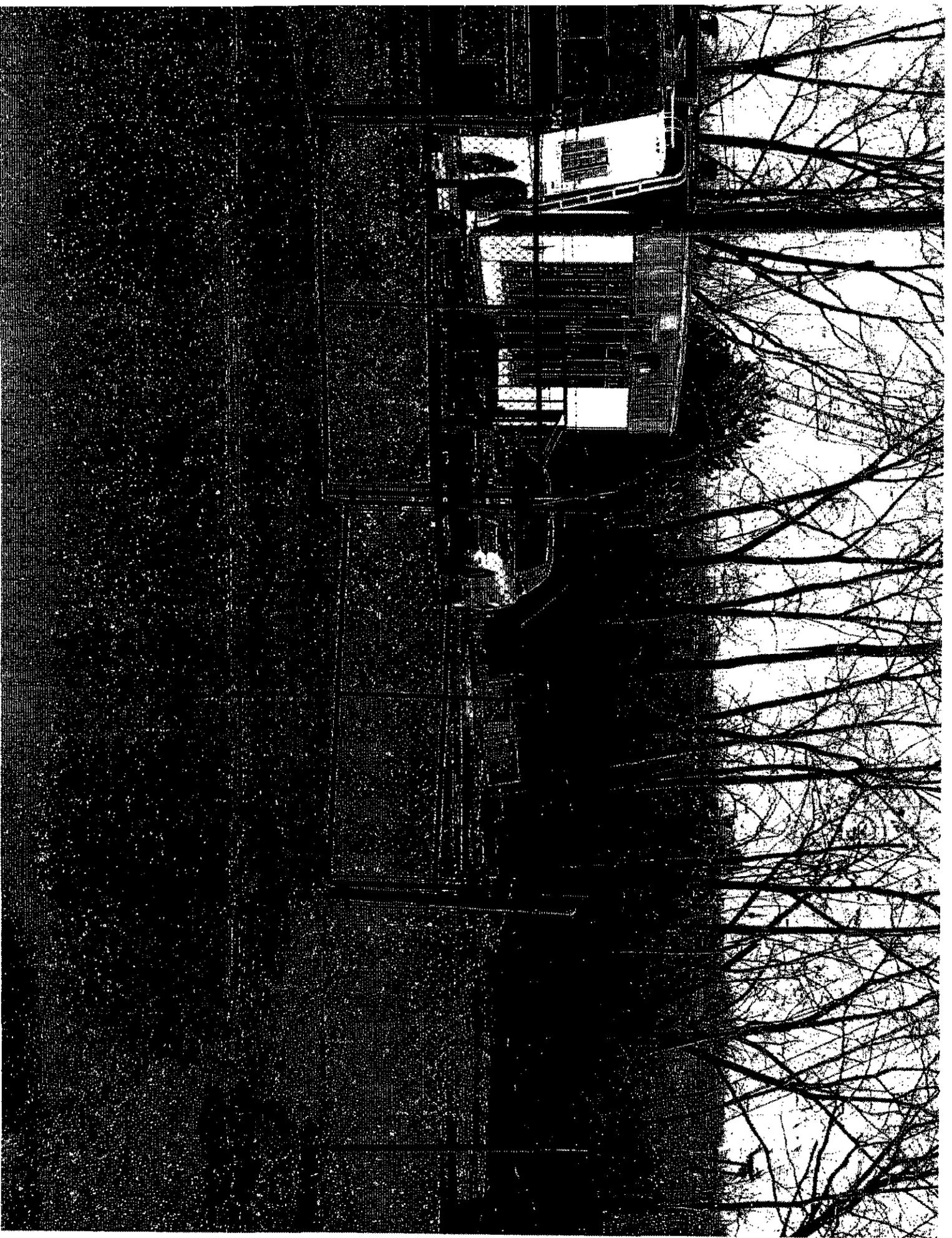
E3-07



4-3-67



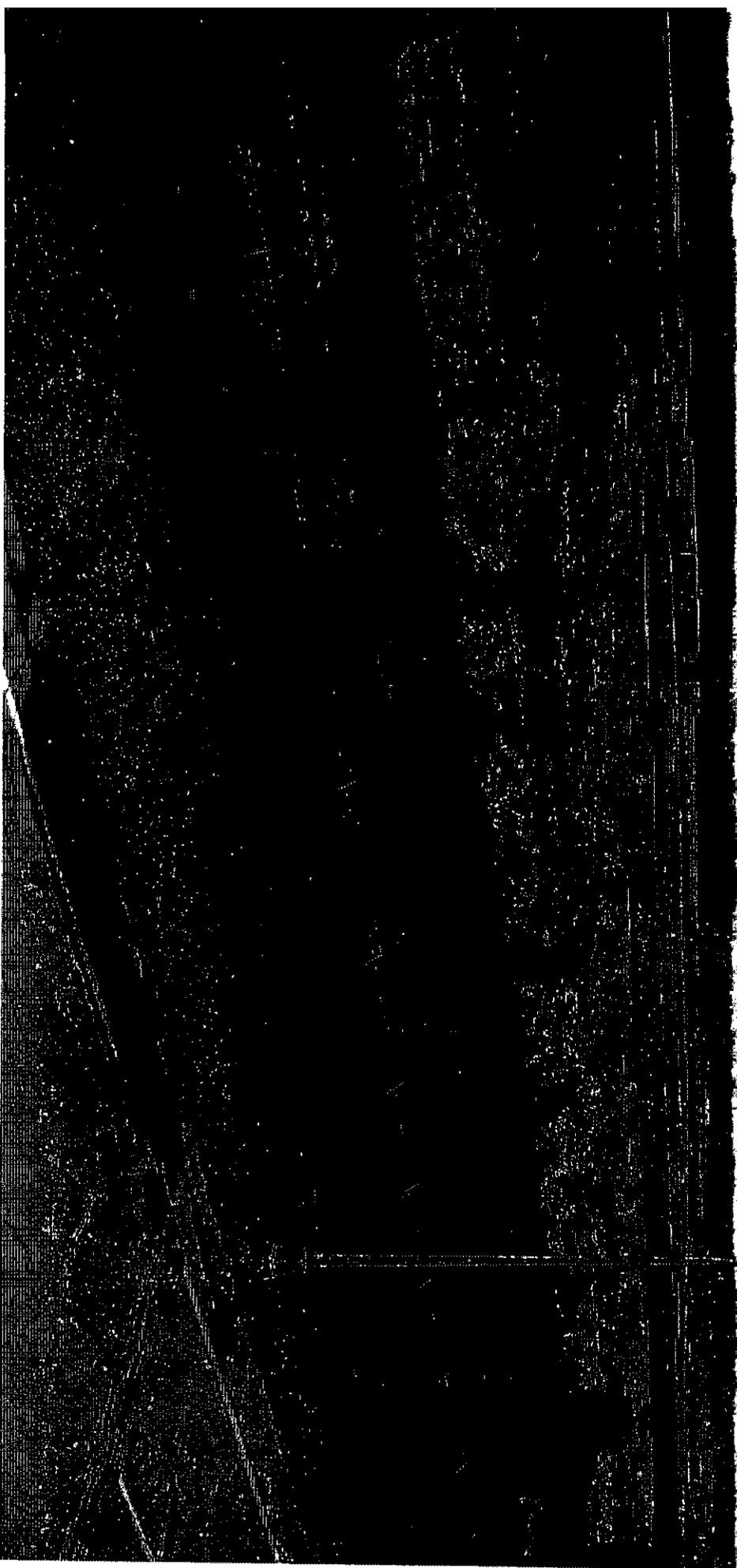
1-3-07



1-297



11-2-86



+

+

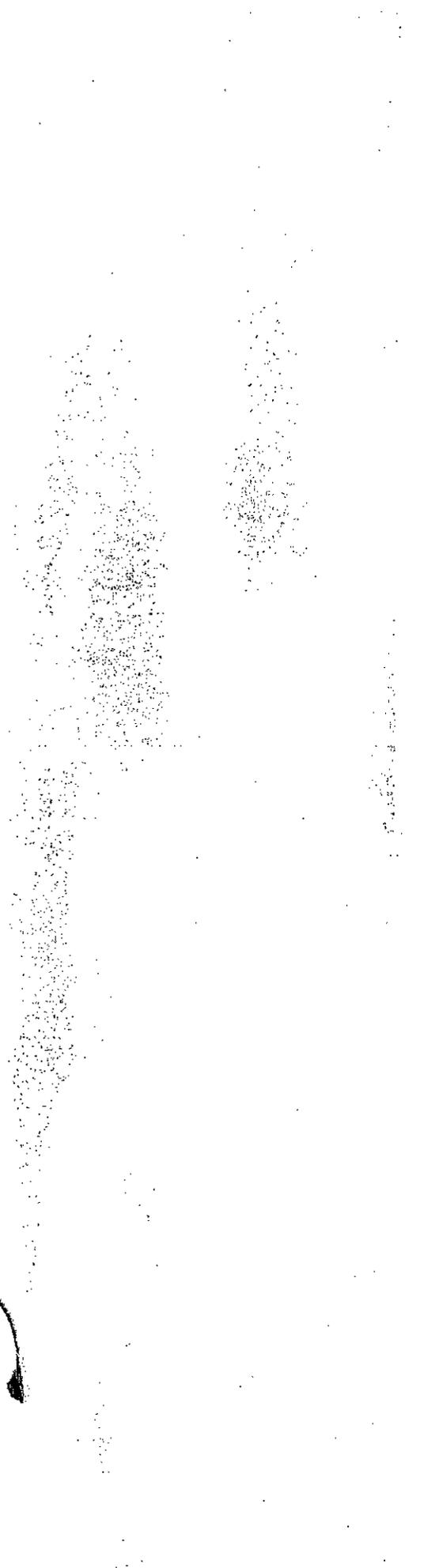
+

+

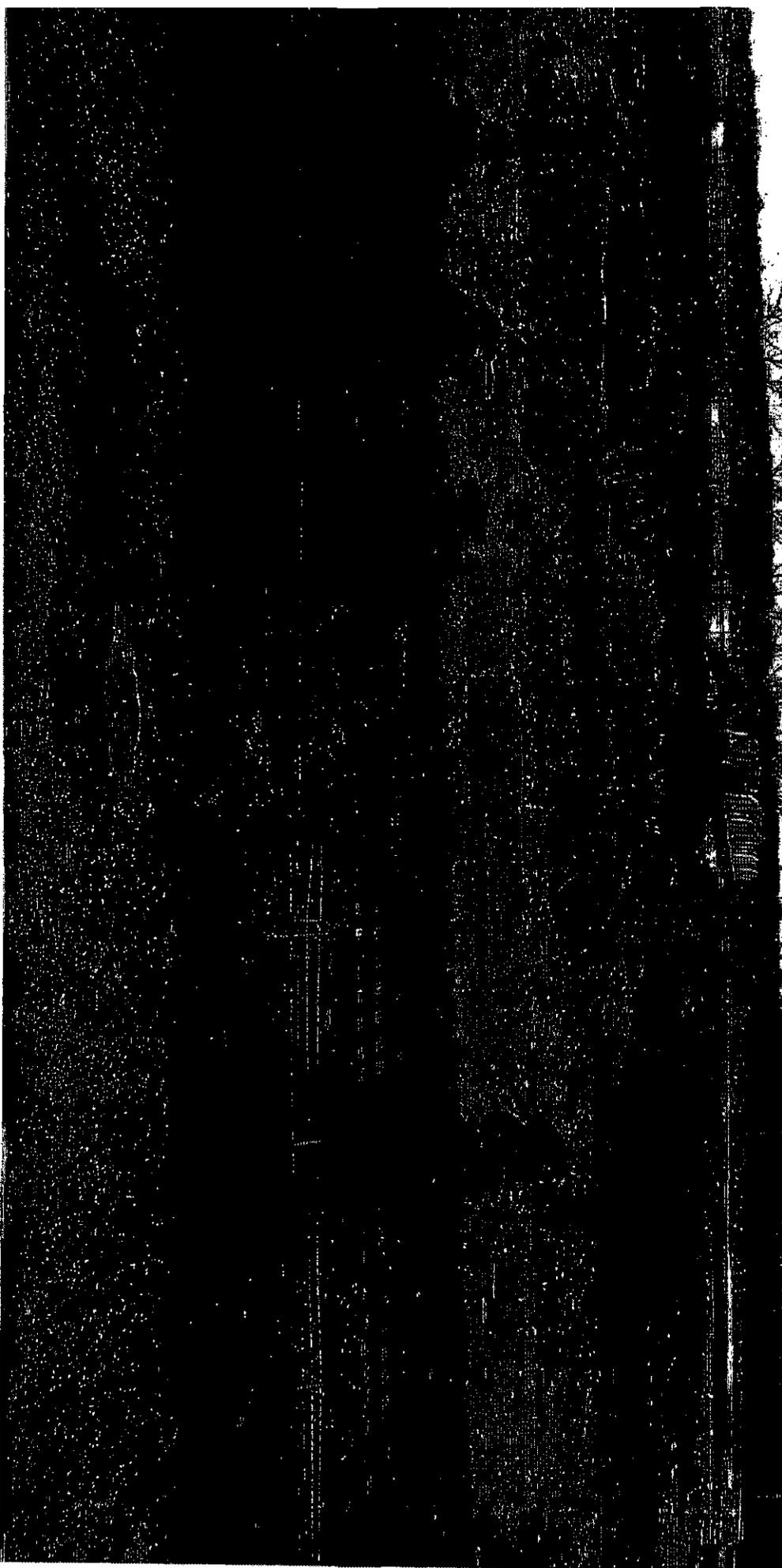
+

+

+



11-7-86

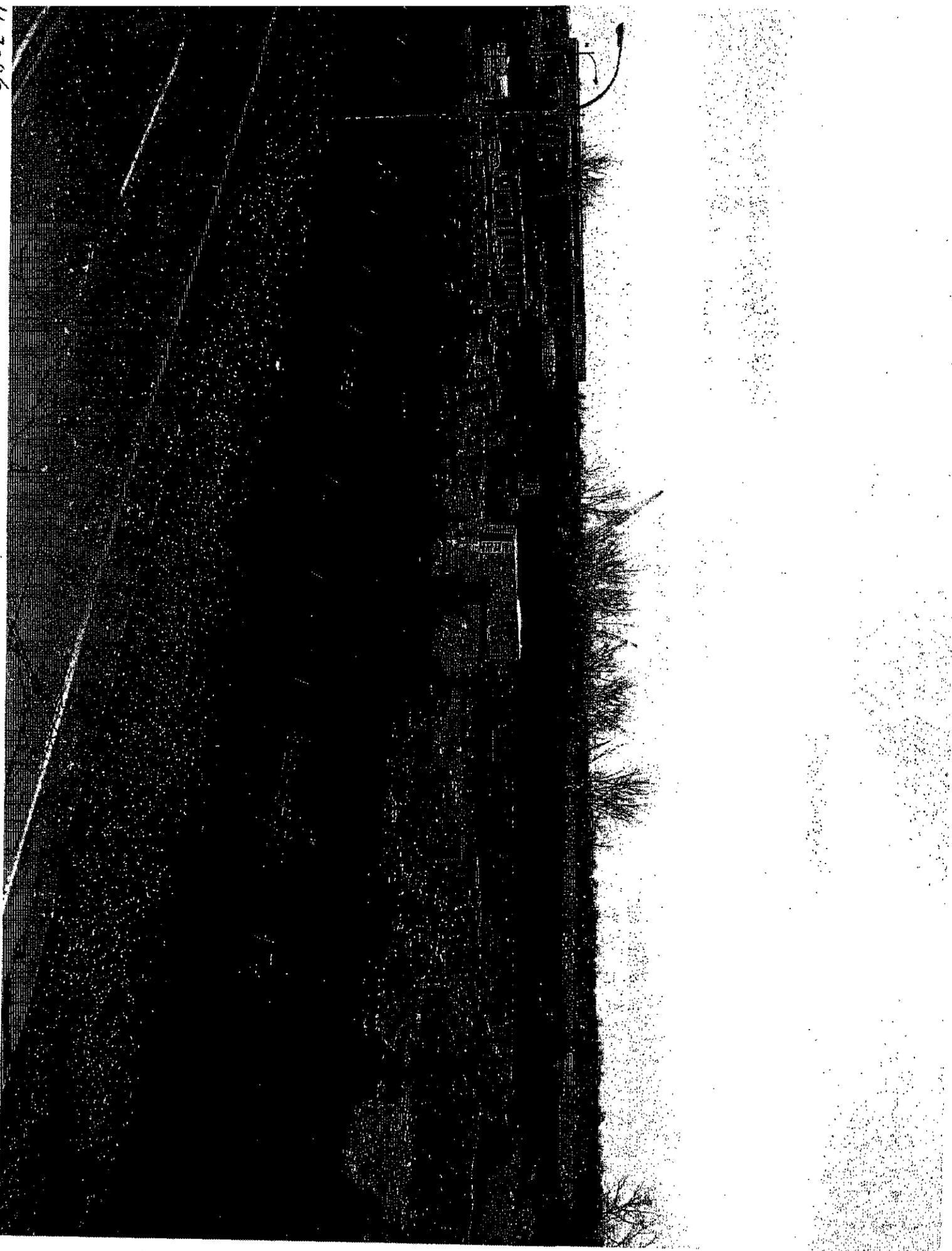


1-7-66

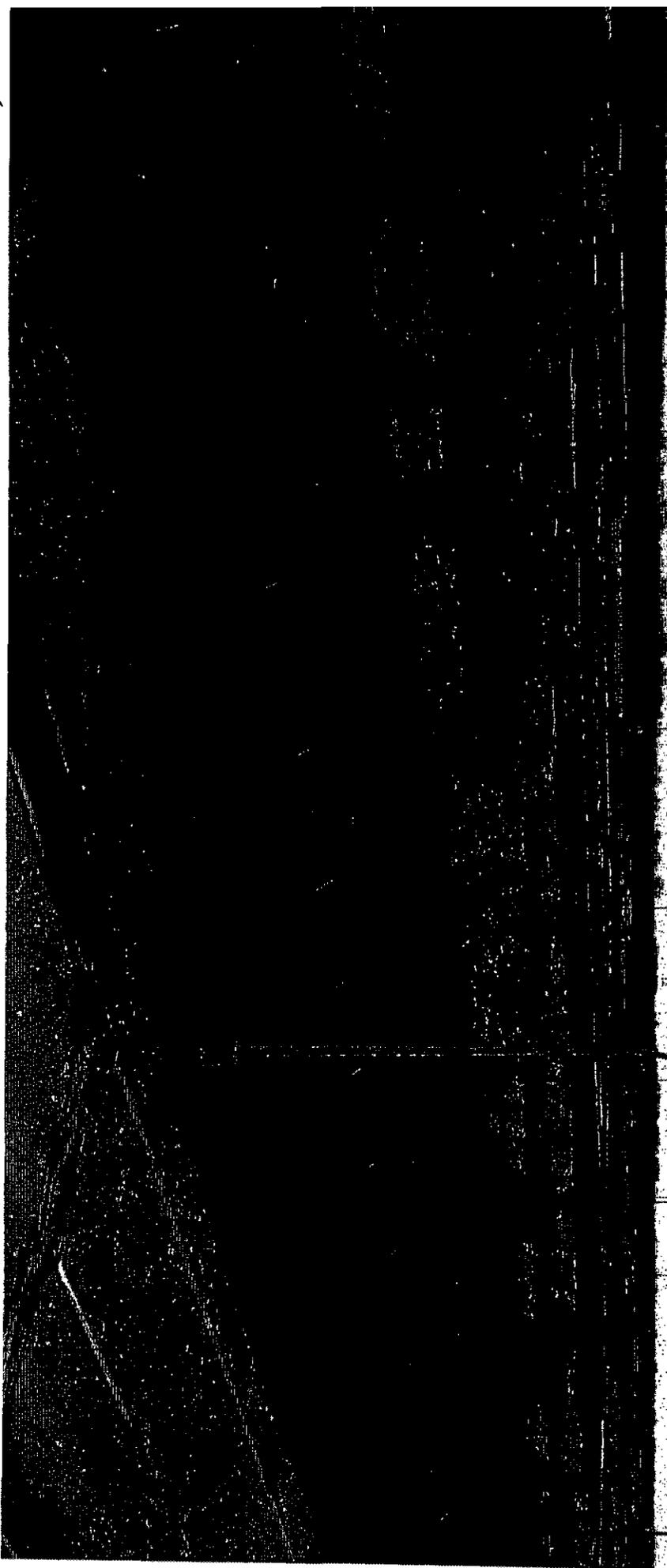


AP-2001 (SSE)

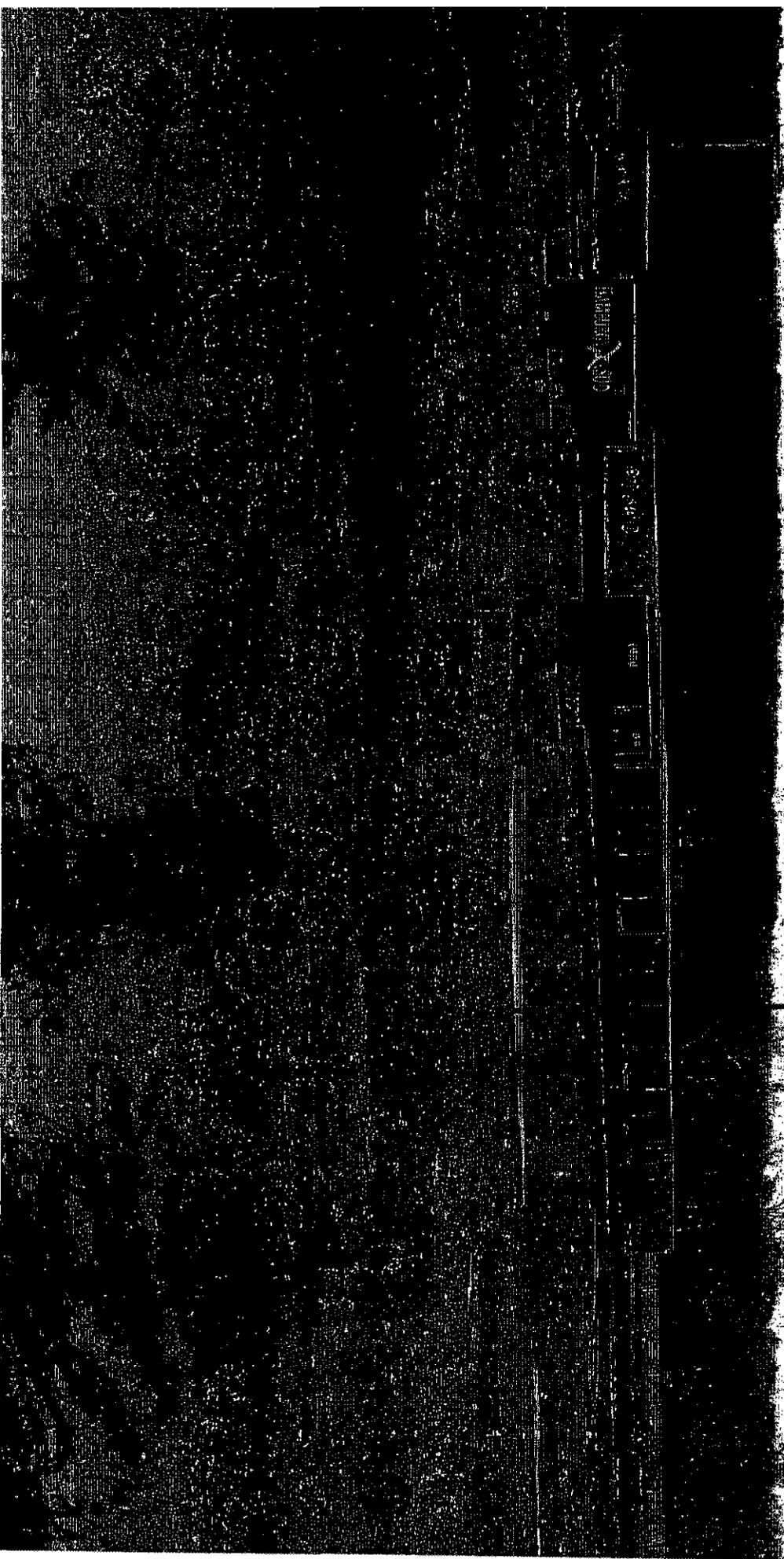
11-7-06



1-7-66



1-2-46



EXHIBIT

1-2-46

1-2-46

1-2-46

1-2-46

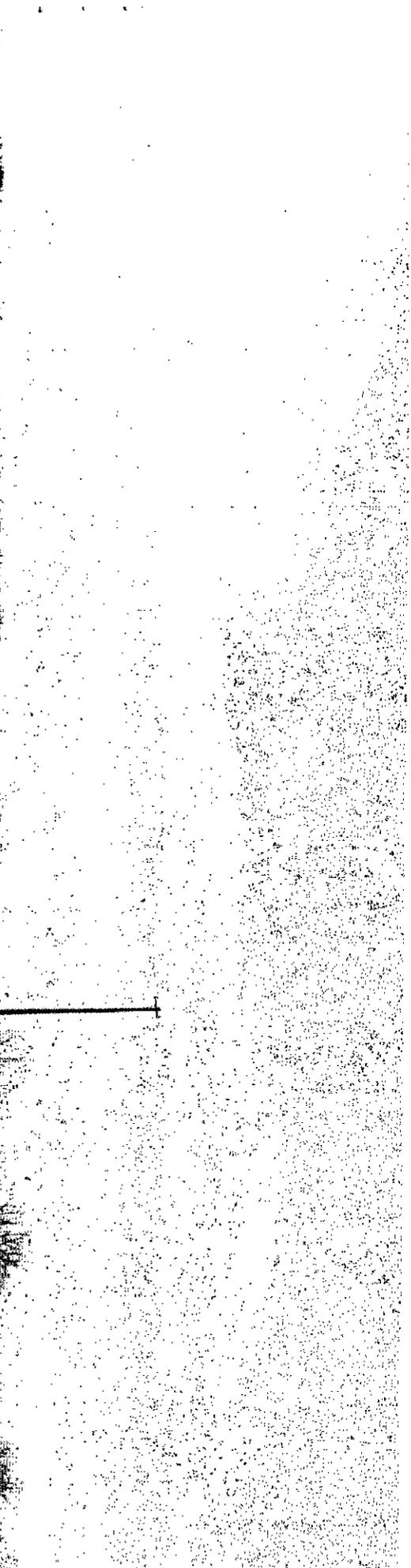
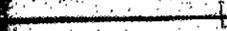
1-2-46

1-2-46

1-2-46

1-2-46

1-2-46



11-7-06

